# JOURNAL

of the

# SENATE

of the

# COMMONWEALTH OF KENTUCKY

Regular Session of 1958

Volume I

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Held in the State Capitol in the Capital City of Kentucky, at
Frankfort, in the Year of Our Lord 1958 and
in the One Hundred and Sixty-Sixth
Year of the Commonwealth

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Begun on the Seventh Day of January, 1958, and Adjourned
Sine Die on the Twenty-First Day of March, 1958

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# JOURNAL

OF THE

# KENTUCKY SENATE

## COMMONWEALTH OF KENTUCKY

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REGULAR SESSION OF 1958

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## TUESDAY, JANUARY 7, 1958

## FIRST LEGISLATIVE DAY

At a General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on January 7, 1958, the one hundred and sixty-sixth year of the Commonwealth, in accordance with the provisions of the Constitution, the Honorable Harry Lee Waterfield, Lieutenant Governor of the Commonwealth, and President of the Senate, assumed the chair and called the Senate to order.

Prayer by the Reverend Edward L. Tullis of the First Methodist Church of Frankfort.

Mr. Charles Waggoner, Chief Clerk of the Senate during the last session of the General Assembly, read the following certificates from the Secretary of State:

### CERTIFICATION

I, Thelma L. Stovall, Secretary of State of the Commonwealth of Kentucky, do hereby certify that the attached is a list of the membership of the State Senate as compiled by this office, according to the records on file in said office and from the best information obtainable; and that same is a true and correct copy as I verily believe.

Given under my hand and seal of office, this 7th day of January, 1958.

THELMA L. STOVALL
Thelma L. Stovall
Secretary of State
Commonwealth of Kentucky.

### State Senate

1. Graves-Hickman-Fulton-Marshall. Wayne W. Freeman, Democrat, Mayfield.
2. McCracken-Ballard-Carlisle-Livingston. Strother Melton, Democrat, Paducah.
3. Calloway-Crittenden-Caldwell-Trigg-Lyon. George E. Overbey, Democrat, Murray.
4. Henderson-Union-Webster. J. Murray "Hunkie" Blue, Democrat, Providence.
5. Muhlenberg-Todd-Logan-Simpson. John W. Willis, Democrat, Greenville.
6. Hopkins-Christian. Frank H. Bassett, Jr., Democrat, Hopkinsville.
7. Warren-Allen-Edmonson. C. W. (Skillet) Robinson, Democrat, Bowling Green.
8. Daviess-Hancock-McLean. E. W. Richmond, Democrat, Utica.
9. Barren-Hart-Adair-Metcalfe. Lloyd M. Greene, Democrat, Cave City.
10. Grayson-Ohio-Butler-Breckinridge. Ulysses G. Byers, Republican, Welchs Creek.
11. Campbell. Louis Reuscher, Democrat, Newport Finance Bldg., Newport.
12. Meade-Bullitt-Spencer-Larue-Hardin. Clyde S. Howard, Democrat, Elizabethtown.
13. Fayette. John C. Anggelis, Democrat, 261 Albany Road, Lexington.
14. Nelson-Taylor-Green-Marion-Washington. Broadus E. Hickerson, Democrat, Lebanon.
15. McCreary-Pulaski-Whitley. O. O. Duncan, Republican, Whitley City.
16. Clinton-Cumberland-Russell-Monroe-Wayne. Ed P. Warinner, Republican, Albany.
17. Bell-Knox. Denver C. Knuckles, Republican, Middlesboro.
18. Garrard-Boyle-Casey-Lincoln. Cabell D. Francis, Democrat, Stanford.
19. Laurel-Clay-Owsley-Rockcastle-Jackson. Fred V. Lucas, Republican, London.
20. Shelby-Franklin-Anderson-Scott. James R. "Jimmy" Hamilton, Democrat, Georgetown.
21. Leslie-Harlan. A. E. Cornett, Republican, Hyden.
22. Mercer-Madison-Jessamine-Woodford. Paul Jackson, Democrat, Versailles.
23. Perry-Letcher. Merlin Blair (Tug) Fields, Democrat, Hazard.

24. Kenton. James C. Ware, Democrat, Covington.
25. Johnson-Boyd-Lawrence. Wendell Van Hoose, Republican, Tutor Key.
26. Gallatin-Boone-Carroll-Henry-Oldham-Owen-Trimble. Alvin Kidwell, Democrat, Sparta.
27. Fleming-Rowan-Mason-Bath-Menifee-Wolfe. Ed J. Kelly, Democrat, Flemingsburg.
28. Montgomery-Bourbon-Clark-Estill-Powell. Cassius M. Clay, Democrat, Paris.
29. Floyd-Knott-Martin. Jerry Fonce Howell, Democrat, Price.
30. Nicholas-Bracken-Grant-Harrison-Pendleton-Robertson. H. Stanley Blake, Democrat, Carlisle.
31. Pike. Dr. J. E. Johnson, Democrat, South Williamson.
32. Carter-Elliott-Greenup-Lewis. Mrs. J. Harry Davis, Republican, Grayson.
33. Jefferson. Bernard J. Bonn, Democrat, 4020 West Broadway, Louisville.
34. Breathitt-Morgan-Magoffin-Lee. Charles H. Davis, Democrat, Jackson.
35. Jefferson. Martin J. Duffy, Jr., Democrat, 2555 Woodbourne, Louisville.
36. Jefferson. Scott Miller, Jr., Republican, 408 Louisville Trust Bldg., Louisville.
37. Jefferson. C. W. A. McCann, Democrat, 5709 Southland Blvd., Louisville.
38. Jefferson. Gates F. Young, Democrat, Puritan Apts., 1244 So. 4th, Louisville.

The roll was called. All Senators present.

The following Senators produced their certificates of election, appeared before the bar of the Senate, and were administered their oaths of office by the Chief Justice John R. Moremen of the Court of Appeals of Kentucky.

Frank H. Bassett, Jr.
H. Stanley Blake
J. Murray Blue
Ulysses G. Byers
Cassius M. Clay
Charles H. Davis
Mrs. J. Harry Davis
Cabell D. Francis
James R. Hamilton

Broadus E. Hickerson
Clyde S. Howard
Paul Jackson
Alvin Kidwell
Strother Melton
Scott Miller, Jr.
E. W. Richmond
James C. Ware
Ed P. Warinner

The President announced that election of the Chief Clerk was in order. Senator Bassett nominated the Honorable Charles Waggoner, and he was elected by acclamation. The President declared that Mr. Waggoner was the duly elected Chief Clerk of the Senate.

Mr. Waggoner appeared before the bar of the Senate and was administered the oath of office by Chief Justice John R. Moremen of the Court of Appeals. The President vacated chair for the newly elected Clerk.

Senator Howell announced that the Democratic Party, in caucus assembled, had elected the Honorable Frank H. Bassett, Jr., Senator from the County of Christian, as Majority Floor Leader.

Senator Bassett moved that Cassius M. Clay, Senator from the County of Bourbon, be elected President Pro Tempore of the Senate.

Senator Warinner moved that Wendell Van Hoose, Senator from the County of Johnson, be elected President Pro Tempore of the Senate.

There being no further nominations, the roll was called. The vote for Senator Clay was 29—Bassett, Blake, Blue, Bonn, Byers, C. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, McCann, Melton, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis, Young. The vote for Senator Van Hoose was 8—Clay, Cornett, Mrs. J. H. Davis, Duncan, Knuckles, Lucas, Miller, Warinner. The presiding officer declared Senator Clay the duly elected President Pro Tempore of the Senate.

Senator Clay having been duly elected, Senator Van Hoose moved his election be made unanimous. Agreed.

The President, the Honorable Harry Lee Waterfield, Lieutenant Governor, resumed the chair.

The President announced that by virtue of his nomination by the Republican Party in caucus for President Pro Tempore the Honorable Wendell Van Hoose, Senator from the County of Johnson, would become Minority Floor Leader.

The President announced that election of other constitutional officers was in order. Senator Bassett moved that the following be so named:

Assistant Clerk of Senate—Mrs. Mary Purdy

Sergeant-at-Arms—Jack Bunnell

Enrolling Clerk—Elesteen Hager

Door Keeper—Roy Davis

Janitor—Joe Cummins

Cloak Room Keeper—Freddie E. Barton

Pages—Charlene Kitson, Charles Gregory and David Gregory

The above named officers were nominated by Senator Bassett and elected by acclamation.

## INTRODUCTIONS

**SR 1**, by Senator Bassett: A SENATE RESOLUTION relating to extending an invitation to the pastors of Frankfort churches to open sessions of the Senate with prayer.

*Be it resolved by the Senate of the Commonwealth of Kentucky:*

That the Sergeant-at-arms be directed to invite the pastors of the various churches to attend the meetings of this Senate and open the sessions thereof with prayer.

Senator Bassett moved adoption of **SR 1.** Agreed by voice vote.

**SR 2,** by Senator Bassett: A SENATE RESOLUTION authorizing appointment of a committee of the Senate to wait upon the House and the Governor.

*Be it resolved by the Senate of the Commonwealth of Kentucky:*

That a committee of this Senate be appointed by the President to wait upon the House and notify that body that this Senate is now organized and ready to proceed to the transaction of business and that said committee shall, in conjunction with a like committee from the House, wait upon the Governor and inform him that the General Assembly is now organized and ready to receive any communications he may desire to deliver.

Senator Bassett moved adoption of **SR 2.** Agreed by voice vote.

The President of the Senate appointed Senators Robinson, Melton, Kidwell, Jackson, Howard, Clay, and Byers to said committee.

**SR 3,** by Senator Bassett: A RESOLUTION adopting permanent rules to govern the 1958 regular session of the Senate.

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:*

That the attached rules are adopted as the permanent rules to govern the Senate during the 1958 session of the General Assembly, superseding the rules under which the Senate has operated.

# PROPOSED RULES
# SENATE
# OF THE
# KENTUCKY GENERAL ASSEMBLY
# FOR THE
# 1958 REGULAR SESSION

* * * * * *

**Recommended for Adoption**
**by the**
**Legislative Research Commission**
**Reproduced for the Consideration of Members**
**by the Legislative Research Commission**
**December 1957**

## PROPOSED RULES
## SENATE
## 1958 REGULAR SESSION

### Sessions of the Senate

**Rule 1. Hours of Meeting.** The Senate shall meet at 1 p.m., except on Monday, when it shall meet at 8:00 p.m. The official time shall be governed by the clock over the main entrance to the Senate Chamber.

**Rule 2. Quorum.** A majority of the Senators elected to the Senate shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the Senate, four Senators may adjourn or recess from day to day or from time to time and eight Senators may order a call of the Senate and send for absent Senators.

**Rule 3. Call of the Senate.** Upon a call of the Senate the Clerk shall call the role, then call the absentees again. The doors of the Senate Chamber shall then be closed and the absentees not excused by the Senate may be sent for and arrested by the Sergeant-at-Arms. The Senate shall determine upon what conditions they shall be discharged from arrest. Senators who voluntarily appear shall be immediately admitted to the floor of the Senate and their names entered upon the Journal as present, unless the Senate otherwise directs.

### Order of Business

**Rule 4. Order of Business.** The order of business shall be as follows:

1. Invocation.
2. Roll Call.
3. Reading and Approval of the Journal.
4. Motions, Petitions and Communications.
5. Reading of New Bills and Resolutions Introduced by Title and Sponsor.
6. Report of Committees.
7. First Reading of Bills.
8. Second Reading of Bills.
9. Orders of the Day.
10. Announcements.
11. Reference of Bills to Committees.

No more than thirty minutes shall be allotted to Motions, Petitions and Communications.

**Rule 5. Unfinished Business.** Unfinished business which was being considered upon adjournment shall have precedence in the class of business to which it properly belongs upon the next succeeding legislative day.

## Motions

**Rule 6. Reading of Motions.** When a motion has been made and seconded, it shall be stated by the chair, or, being in written form, it shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

**Rule 7. Withdrawal of Motions.** Every oral motion after it has been stated by the President, and every written motion, bill, resolution or other paper, after it has been read by the Clerk, shall be the property and in possession of the Senate, and shall not be withdrawn without consent of the Senate. Every written motion, report or measure may be committed or recommitted at the pleasure of the Senate.

**Rule 8. Order of Questions.** All questions, whether in Committee of the Whole or in the Senate, when not a privileged question, shall be propounded in the order in which they were moved, except that in filling blanks the smallest sum and the most remote date shall be put first.

**Rule 9. Precedence of Motions.** When a question is under consideration, no motion shall be in order except:

1. To fix the time to which the Senate shall adjourn.
2. To adjourn.
3. To take recess.
4. To lay on the table.
5. For the previous question.

6. To postpone to a fixed time.
7. To commit.
8. To amend.
9. To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged and the first five of them shall not be debatable.

A second motion to adjourn, to take a recess, to lay on the table, for the previous question, to postpone to a time certain, to commit or to postpone indefinitely shall not be in order on the same day, upon the same question, and at the same status unless other business intervenes; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone.

**Rule 10. Motion to Strike Out Enacting Clause.** A motion to amend by striking out the enacting words of a bill or resolution shall have precedence over a motion to amend; and, if adopted, shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

**Rule 11. Motion to Adjourn.** A motion to adjourn, to take a recess, or a motion to adjourn to a time certain, shall always be in order, except when a Senator is speaking or while a vote is being taken; subject, however, to the limitation set out in Rule 9.

**Rule 12. Previous Question.** When the previous question has been ordered, a vote shall be taken immediately upon the pending measure and such pending amendments as are in order. The effect of the previous question shall be to put an end to all debate; to prevent the offering of additional amendments and to bring the Senate to an immediate vote upon the measure and amendments aforesaid. The previous question may be ordered by a majority of the Senators elected. On the call of the roll, no Senator shall be allowed to speak more than three minutes to explain his vote and shall not speak at all if the question is not a debatable question. After the previous question has been ordered, and before the vote upon the main question, the opponents of the measure shall have ten minutes, and proponents of the measure shall have ten minutes.

**Rule 13. Motion to Separate Part of a Measure.** A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder shall not be in order.

**Rule 14. Motion to Reconsider.** A motion to reconsider a vote shall not be in order unless made by a Senator who voted upon the prevailing side of the question; nor shall such motion be in order unless made within two legislative days in which the Senate is in session next after the day the vote was taken; however, the motion to reconsider when coupled with the additional motion to lay that motion upon the table may be made by any Senator.

**Rule 15. Postponement of Measures.** When a measure shall have been postponed indefinitely it shall not be in order again during the session.

**Rule 16. Reading of Pending Papers.** Any pending bill, resolution, motion or report shall be read by the Clerk upon the demand of any Senator, but it shall not again be read on the same day unless so ordered by the Senate.

**Rule 17. Nominations.** In all elections a previous nomination shall be made.

### Members

**Rule 18. Attendance of Members.** No Senator shall absent himself from a session of the Senate without leave from the Senate.

**Rule 19. Decorum of Members.** No Senator shall designate another Senator by name.

**Rule 20. Call to Order.** If any Senator, in speech or otherwise, transgress the rules to order or decorum, he shall immediately be called to order by the chair and shall take his seat. The Clerk shall reduce the objectionable words to writing and read them to the Senate. After hearing a short explanation from the Senator called to order, or upon the withdrawal of the objectionable language, the President may permit the Senator to proceed, or may compel silence upon him until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the Senate. A Senator offending the Senate shall be liable to censure.

**Rule 21. Debate.** No Senator may speak more than once to the same subject until all Senators desiring to be heard have spoken, but nothing in this rule shall do away with the previous question if then in effect, nor permit debate on an undebatable motion.

No Senator shall speak more than thirty minutes in the aggregate on any question or measure, at the end of which period, or any portion thereof, the floor shall be returned to the President.

**Rule 22. Members Shall Vote at Seats.** A Senator shall vote only when at his seat or visibly approaching it.

### Officers and Employees

**Rule 23. Duties of President.** The President shall take the chair every day precisely at the hour fixed for the meeting of the Senate and, on the appearance of a quorum, shall cause the Journal of the preceding day to be read, unless the reading of the same is dispensed with by the Senate.

The President shall preserve decorum and order and, in the event of any disorder in the gallery or in the Senate Chamber, may cause the same to be cleared of any persons creating disturbances or disorders.

All writs, warrants, subpoenas or other processes shall be signed by the officer who may be presiding over the Senate when the paper is issued; and his signature shall be attested by the Clerk, when ordered by a majority of the Senators.

The President shall appoint all committees and refer bills to committees.

**Rule 24. Appeal from Decision of Chair.** The President while presiding may speak to points of order in preference to Senators. He shall decide points of order and manner of procedure. If two or more Senators arise from their respective seats and address the chair, the President shall determine who was first and recognize him. Any decision made by the President shall be subject to appeal to the Senate. Every such appeal shall be in writing and signed by at least two Senators. During the pendency of an appeal to the Senate from a decision of the chair, the President shall vacate the chair and call the President Pro Tem to preside.

**Rule 25. President Pro Tempore.** If the President be called upon to administer the government or resign, die or be absent from the State, the President Pro Tem of the Senate shall have the rights and perform all the duties pertaining to the office of the President of the Senate. The President Pro Tem shall preside over the Senate in the absence of the President of the Senate. The President Pro Tem may designate any Senator to preside in the absence of both the President and President Pro Tem and to perform all duties of the President Pro Tem. Such designation by the President Pro Tem may be made from time to time or for such duration of time as the President Pro Tem may designate and each such designation shall be in writing filed with the Clerk of the Senate.

**Rule 26. Duties of Clerk.** The Clerk shall have charge and supervision of all the clerical business of the Senate. He shall have charge of the Clerk's section of the Senate Chamber and shall see that no one is permitted therein except himself and those assisting him. Half an hour before the time fixed for the meeting of the Senate each day, the Clerk or one of his assistants shall be present at the Clerk's desk with the minutes of the preceding session for the inspection of any Member of the Senate.

The Clerk shall read to the Senate papers ordered to be read; call the roll and note and report the absentees when a call of the Senate is ordered; call the roll and note the answers of members when a question is taken by yeas and nays; assist the President in taking the count when any vote of the Senate is taken; notify committees of their appointment and business referred to them; attest all writs, warrants and subpoenas issued by order of the Senate; keep a calendar showing such bills as are entitled to their second reading each day, distinguishing between House and Senate bills; superintend the engrossing and enrolling of bills; certify to the passage of all bills and to the adoption of all joint and concurrent resolutions by the General Assembly; and make all reports to the House, unless otherwise ordered.

**Rule 27. Journal of Proceedings.** The Clerk shall cause to be kept the Journal of the proceedings of the Senate. The Clerk shall note upon the Journal all questions of order, together with the disposition of same, and the dates upon which all bills and resolutions were sent to committee and returned to the Senate. The Senate may correct errors in the Journal the day the Journal containing errors is presented to the Senate. No record which is in the hands of the Clerk and is required by law to be entered upon the Journal of the Senate shall be copied by any person until same shall have been entered upon the Journal and said Journal shall have been approved.

The Clerk shall transmit the Journal for each day as soon as it has been approved by the Senate to the Legislative Research Commission, which shall deliver it to the public printer. The Commission staff shall proofread and index the Journal upon return from the printer and make necessary typographical corrections.

**Rule 28. Custody of Papers.** The Clerk shall have custody of all records, papers and bills of the Senate and shall not allow them to be taken out of his possession without the leave of the Senate, unless to be delivered to the chairman of a committee to which they have been referred or to the public printer, and then he shall take a proper receipt therefor. He shall endorse on bills and papers brief notes of proceedings had thereon by the Senate and preserve the same in convenient files for reference.

**Rule 29. Accounts of Expenditures.** The Legislative Research Commission shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House and Senate.

**Rule 30. Printing of Senate Papers.** The Clerk shall have supervision and charge of all printing done for the Senate and the public printer shall print only such documents and other matter as the Clerk authorizes. He shall report to the President, to be submitted to the Senate, every failure of the printer to execute work correctly and promptly.

**Rule 31. Duties of the Sergeant-at-Arms.** It shall be the duty of the Sergeant-at-Arms and Doorkeeper to exclude or remove all persons not entitled to the floor of the Senate. Fifteen minutes before convening of the Senate each day the Sergeant-at-Arms shall announce in a loud, distinct voice: "All persons not entitled to the floor of the

Senate under the rules thereof will now vacate the Senate Chamber." He shall then compel all persons who are not entitled to remain therein to leave the Senate Chamber and shall prohibit their entry until thirty minutes after the Senate has adjourned.

The Sergeant-at-Arms of the Senate, before any joint session is to be held, shall request the Sergeant-at-Arms of the House to arrange for the seating of the Members of the Senate in a body. The Senators will assemble in the Senate Chamber five minutes before the meeting of any joint session and go to the House in a body.

**Rule 32. Conduct of Employees.** All the constitutional employees of the Senate shall, one hour before the meeting of the Senate each day, report to the Clerk, who shall report to the President whether or not all of said employees are on duty. The President, whenever he deems it necessary, shall report to the Senate any dereliction of duty. No officer or employee of the Senate shall receive any fee, tip or compensation from any Senator and violation of this rule shall be ground for dismissal.

All other professional, clerical and other employees required by the Senate or any of its committees shall be provided by the Legislative Research Commission and shall be under the supervision of the Director of the Commission.

## Committees

**Rule 33. Standing Committees.** The following shall be the standing committees of the Senate:

Agriculture and State Fair
Appropriations
Banking and Insurance
Claims
Conservation
Education
Enrollment
Executive and Legislative Affairs
Health and Welfare
Judiciary
Labor and Industry
Military Affairs and Civil Defense
Municipalities
Public Utilities
Revenue and Taxation
State and County Government
Suffrage, Elections and Constitutional Amendments
Transportation and Highways
Ways and Means

**Rule 34. Committee on Claims.** All resolutions to authorize the filing of suits or payment of claims against the Commonwealth or any department or agency of the State shall, upon their introduction, be referred by the Clerk to the Committee on Claims. Each person seeking to obtain such authorization for suit shall file with the Committee on Claims a statement, duly sworn and subscribed to, in which all the facts and circumstances connected with the cause of action on which such person seeks to recover are set forth; and such statement shall set forth a prima facie case against the Commonwealth of Kentucky or any department or agency of the State before the Committee shall report such resolution with the expression of opinion that the same should pass.

**Rule 35. Rules Committee.** No bill shall be considered by the Senate during the last fifteen legislative days of the session of the Senate or during any special session except upon the recommendation or report of the Rules Committee previously obtained. The Rules Committee shall determine the order in which bills shall be taken up and considered during the last fifteen legislative days.

If and when the time be fixed for the sine die adjournment of the session of the General Assembly, the last fifteen legislative days shall be held and construed to mean the last fifteen legislative days next prior to the time so fixed. If the resolution be adopted for sine die adjournment within fifteen days of the time fixed for such adjournment, then the Rules Committee shall take charge for such lesser number of days as may remain from the time such resolution for sine die adjournment is adopted and the time fixed for such adjournment.

The Majority Floor Leader of the Senate shall act as chairman of the Rules Committee. The Majority Floor Leader of the Senate shall act for the Rules Committee in calling from committee any bills or resolutions and shall be recognized by the President for said purpose during all times that the Rules Committee is in charge. The President Pro Tem shall act as chairman in the absence of the Majority Floor Leader.

**Rule 36. Committee on Conference.** When a Senate bill has been amended in the House and the Senate refuses to concur in said amendment, or when a House bill has been amended in the Senate and the House refuses to concur in said amendments, and when neither will recede from such action, the President shall appoint a Committee on Conference to meet a like committee from the House. The Committee on Conference shall confer with the House Committee and report back to the Senate within a reasonable time, in the same manner as reports are made for Senate bills. The conference report shall be voted upon, and, if adopted the bill shall immediately be put upon its final passage.

**Rule 37. Appointment of Committees.** The President shall appoint the members of all standing and special committees and shall fill any vacancies thereon. The President shall select members distributed as equally as possible from among Congressional districts, and in proportion to the representation of each political party in the Senate.

**Rule 38. Meetings of Committees.** No committee except the Committee on Enrollment and a Committee on Conference between the House and Senate shall sit while the Senate is in session, unless by consent of the Senate. The Committee on Enrollment may report at any time except during roll call or while a vote is being taken.

The President, in conference with committee chairmen, shall schedule a definite time and place for the meetings of each committee, such schedule to be posted in the Senate Chamber and published in the **Legislative Record.** A committee shall meet at the scheduled time and place so long as business is pending before the committee.

The Chairman shall keep a record of the attendance of members at meetings, which record shall be filed with the Clerk.

The Director of the Legislative Research Commission shall assign a secretary to each committee and provide any professional, clerical or other employees required by any committee.

**Rule 39. Committee Reports.** Every committee shall report the disposition of every bill and resolution referred to it as promptly as possible. Upon the call of standing committees, the Clerk or the chairman or ranking member of the committee may report the bill in the following manner.

"With the expression of opinion that the same should pass," or,

"With the expression of opinion that the same should pass, with the committee amendment attached thereto," or,

"With the expression of opinion that the same should pass, with the committee substitute attached thereto," or,

"With the expression of opinion that the same should not pass," or,

"Without expression of opinion."

**Rule 40. Majority and Minority Reports.** It shall require a majority of the committee membership to report a bill favorably. The chairman shall keep a record of the vote of each member on the disposition of each bill, and shall report the total vote on each side to the Senate. The chairman may sign reports on behalf of a majority of the committee members and his signature shall attest to the action of a majority but shall not be construed as his personal approval or disapproval of the bill.

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report, and it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The committee's report shall always be read before the minority report is read.

**Rule 41. Failure to Report.** Whenever a committee fails or refuses to report within a reasonable time a bill submitted to it, the same may be called up by any Senator and considered as if it had been regularly reported if a majority of Members elected to the Senate concur therein.

**Rule 42. Procedure in Committee.** The rules of procedure in the Senate shall be observed in committee in so far as the same are applicable.

## Bills and Resolutions

**Rule 43. Form of Bills.** All bills shall be typewritten, with one original and four distinctly legible copies. The original shall be the official bill, and shall be retained by the Clerk for the use of the Senate and House. The second copy shall be used for committees. The third copy shall be for the use of the press and shall be given to a person designated by the press club. The fourth copy shall be provided to the Legislative Research Commission; and the fifth to the bill drafting section of the Commission. All copies shall be backed with a protective cover as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the Senator introducing the bill shall be placed on the cover.

**Rule 44. Introduction of Bills.** Bills and resolutions may be introduced from the floor in the regular Order of Business or by filing them with the Clerk at any time that his office is open and before the Senate adjourns for the day. The Clerk shall number bills in the order received, record their introduction, and transmit a copy immediately to the President for reference to committee.

**Rule 45. Reference of Bills.** The President shall refer all bills to the proper standing committee not later than the second day in which the Senate is in session after the date of introduction. When a Senate bill has been amended in the House and has been returned to the Senate for concurrence in the amendment, it may be referred to a committee in the same manner as original bills are referred. Bills originating in and passed by the House when reported to the Senate shall be referred to the President and shall take the same course as other bills.

**Rule 46. Printing of Bills.** The Legislative Research Commission shall examine the form of all bills to ensure that they are free from errors of form or typography. If a formal change is necessary, the Commission shall request the sponsor of the bill to sign a form approving the specified changes. If a bill is found to be correct, or corrections have been approved, the Commission shall authorize its printing.

The Legislative Research Commission shall have printed two hundred copies of each bill or resolution carrying the force and effect of law introduced in the Senate and of each bill or resolution carrying the force and effect of law acted on by the House and reported to the Senate. Bills shall be printed in the order in which they are certified by committee and distributed to Members immediately upon receipt from the printer. No bill shall be copied or distributed by any person until the same shall have been printed and returned with the printed copies thereof to the Clerk.

**Rule 47. Readings of Bills.** If a bill be reported with the expression of opinion that it should not pass, or without expression of opinion, a vote may then be taken on whether it shall be read at length and be placed on the Calendar, if a majority of the Members elected to the Senate shall concur therein. When reported favorably by the committee, the bill shall then be given its first reading at length and shall be placed by the Clerk upon the Calendar to be kept by him, and shall then be entitled to its second reading the next succeeding legislative day.

Every bill shall be read at length on three different legislative days; but the second and third readings thereof at length may be dispensed with by a majority of all the members elected to the Senate and the bill read by its title.

**Rule 48. Calendar.** The Clerk shall keep a Calendar for each legislative day of the session showing the bills entitled to a second reading upon that day and shall post conspicuously the number of all bills recommended for said Calendar by the Rules Committee.

Bills or resolutions authorizing suits or claims against the Commonwealth shall automatically be placed upon a separate Calendar to be made a special order of business at a time ordered by the Senate.

**Rule 49. Orders of the Day.** When a bill has had its second reading it shall be placed in the Orders of the Day, or be recommitted, and when next reached in the Senate it shall be ready for recommitment, or to be read a third time and placed upon its passage, and the President shall so announce to the Senate.

A bill may be recommitted or amended at any time before its passage. Bills shall be placed in the Orders of the Day in the order in which they have been given their second reading, and shall be taken therefrom in that order, unless otherwise ordered by a majority of Senators elected. When a Senate bill is in the Orders of the Day, it shall be in order on motion of the author to substitute an identical House bill which is in the Orders of the Day of the Senate.

**Rule 50. Final Passage.** When a Senate bill has been amended in the House and the Senate has concurred in the amendment, the bill as amended shall immediately be placed upon its passage.

**Rule 51. Amendments to Bills.** All amendments offered shall be on sheets with a proper heading printed in blank, furnished by the Clerk, and shall bear the signature of the Senators offering the same. All amendments shall give the proper page and line of the printed bill. Two copies of each amendment shall be introduced and the Clerk shall forward one copy to the Legislative Research Commission. No amendment shall be in order that is not germane to the matter under consideration; and the President, when the question is raised, shall rule as to the admissibility of the proposed amendment, subject to appeal to the Senate.

**Rule 52. Engrossment of Bills.** Every Senate bill and joint resolution, together with the amendments thereto, which has been passed by the Senate and not subject to further amendment or motion, shall be engrossed by the Clerk and so certified by him, endorsing thereon the day of passage or adoption. The bill shall be delivered to the House in open session by the Clerk or someone designated by him, and House concurrence asked therein. A like procedure shall be observed toward House bills.

When engrossing a bill, the Clerk may incorporate amendments by means of typing only. When an amendment strikes out any part of the original it shall be indicated in the engrossed copy by one parallel line over the part to be stricken out, in such a way as not to render illegible the original words.

**Rule 53. Enrollment of Bills.** All Senate bills and resolutions which have passed both the Senate and the House shall be delivered by the Senate Clerk to the Enrolling Clerk, taking a receipt therefor, in the order in which passed. The Senate Clerk shall keep the number and title of all bills and joint and concurrent resolutions carrying the force and effect of law, passed by the House of Representatives and the Senate in a suitable record book attesting the fact and date of passage.

In the event a bill which originates in the Senate is amended by the House and the Senate concurs in the amendments proposed and adopted by the House, the Clerk of the Senate shall engross said amendments in the original copy of the Senate bill, attesting the same, before delivering the bill to the Enrolling Clerk of the Senate. The Enrolling Clerk shall then cause the original bill as attested by the Chief Clerk and the safety copy of the bill as delivered from the House to conform to each other by typing in indelible typewriter ink or by writing in red ink the amendments engrossed in the original bill in the safety copy. In cases of extreme emergency and during the last three days prior to sine die adjournment, where no correct printed copy is available, the Enrolling Clerk may enroll such bill or resolution by typing the same on safety paper or by enrolling the same in long-hand.

The original bill or resolution and a printed copy upon safety paper in the exact form as finally passed shall be certified to by the Enrolling Clerk and delivered to the Committee on Enrollment. The Committee on Enrollment and the Enrolling Clerk shall jointly compare the original bill with the enrolled copy, and if the enrollment is ascertained to be correctly done, the Committee shall report the same to the Senate. If any bill or resolution is found not correctly enrolled, it shall be returned to the Enrolling Clerk to be properly enrolled and delivered to the Committee on Enrollment as is first provided herein.

**Rule 54. Signing of Bills.** The Enrolling Clerk of the Senate shall deliver the original and enrolled copies of Senate bills and resolutions signed by the President to the Chairman of the Enrollment Committee of the House for presentation to the Speaker of the House for his signature. When signed by the Speaker of the House, the enrolled bill or resolution and the original copy thereof shall be returned by the Enrolling Clerk to the Clerk of the Senate who shall present the enrolled bill or resolution to the Governor for his approval and take his receipt for same.

**Rule 55. Resolutions.** Resolutions having the force and effect of law shall be treated and considered as bills in all respect under these rules.

### Voting

**Rule 56. Roll Call.** Any member, with a second, may demand a roll call on any matter pending before the Senate. The names of Senators shall be arranged alphabetically when taking a yea and nay vote.

**Rule 57. Pairing.** All pairs announced in the Senate shall be entered on the Journal.

**Rule 58. Division of The Senate.** If the President be in doubt as to the result of a viva voce, or a division demanded, the Senate shall divide. Those voting in the affirmative shall first rise and be counted, and the President shall announce the number of those so voting. Those voting in the negative shall then rise and be counted and the President shall announce the number so voting. He may appoint tellers to count those voting.

**Rule 59. Adjournment Extended During Roll Call.** When the roll is being called in taking a yea and nay vote, and the hour of an adjournment arrives, the same shall stand extended until after said yea and nay vote has been completed and the result announced.

### Privilege of the Floor

**Rule 60. Persons Entitled to the Floor.** No person shall be permitted upon the floor of the Senate when in session except the present members of the General Assembly and all officers and employees of the Senate and members of the immediate family of Senators. Bona fide newspaper correspondents, designated in writing by the daily newspapers or press service they represent, shall be admitted to the floor when recommended by the President and shall be governed by the rules of the Senate and assigned by the President to a press section specifically set aside for them. The Clerk of the Senate shall provide proper identification for families of Senators. The doorkeepers shall not admit such persons without proper identification.

Any person may be extended the privilege of the floor by invitation of the President, but such privilege shall be extended only for a specified time and purpose. No person who shall have been extended the privilege of the floor for a specified time shall engage in any activities for or against any bill, motion or other proceeding upon the floor of the Senate while in session. No privilege of the floor shall be granted to any registered or unregistered lobbyist or legislative agent if the same be known by the Senate, and it shall be the duty of any Senator having such knowledge to bring it to the attention of the Senate, and lobbying shall be grounds for revocation of this privilege.

A special section of the gallery shall be reserved for the guests of members, who shall be admitted upon presentation of an identification card. Senators may submit the names of guests to the Clerk, who shall read the names to the Senate. Members shall not introduce guests from the floor.

**Rule 61. Lobbying in Senate Chambers.** No person shall engage in lobbying for or against any measure while the Senate is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the Senate, and no registered lobbyist shall enter that part of the Capitol while the Senate is in session. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the Senate galleries by any person.

## Rules

**Rule 62. Jefferson's Manual.** In the absence of a specific rule of the Senate, Jefferson's Manual of Parliamentary Practice shall govern the proceedings, except that in all cases where general parliamentary law provides for a rule of two-thirds, it shall mean in this Senate a majority of all the members elected thereto.

**Rule 63. Change of Rules.** The Rules of the Senate, after their adoption, shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the Senate. Whenever a rule is suspended, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day.

Senator Young moved that action be postponed on **SR 3** until Wednesday, January 8. Agreed by voice vote.

### Motions

Senator Clay moved that the Senate operate under 1956 Rules until permanent Rules are adopted. Agreed by voice vote.

The President instructed the Sergeant-at-Arms to notify the House that the Senate has been organized.

### Introductions

**SR 4,** by Senator Robinson: A RESOLUTION authorizing and directing the Clerk of the Senate to rent or purchase a public address system for the Senate.

Senator Overbey moved that **SR 4** be referred to Committee.

The President as instructed by **SR 4** referred said resolution to the following committee: Senators Robinson, Bassett, Van Hoose, and Overbey.

### Motions

Senator Warinner moved that when the Senate adjoins today, it adjourn out of respect to the late Senator Doug Hays and late Senator J. Harry Davis. Agreed.

Senator moved to suspend the rules for the purpose of introducing bills and resolutions. Agreed.

### Introductions

**SR 5,** by Senator Clay: A JOINT RESOLUTION directing that an election be held on the question of the official standard of time for the Commonwealth.

The President announced that **SR 5** is to be referred.

**SB 1,** by Senator Clay: AN ACT proposing an amendment to Section 120 and 122 of the Constitution of Kentucky relating to the office of the Clerk of the Court of Appeals.

**SB 2,** by Senator Warinner: AN ACT relating to absent voting and amending KRS 126.140, 126.150, 126.160, 126.170, 126.180, 126.190, 126.200, 126.210, 126.220, 126.230, 126.240, 126.250, 126.260, 126.270, 126.290, 126.320.

**SB 3,** by Senator Warinner: AN ACT relating to election commissioners.

**SB 4,** by Senator Warinner: AN ACT relating to primary elections.

**SB 5,** by Senator Warinner: AN ACT relating to taxation of nonprofit race tracks.

**SB 6**, by Senator Warinner: AN ACT proposing an amendment to Section 49 of the Constitution of Kentucky empowering the General Assembly to provide for a bonus for veterans.

**SB 7**, by Senator Anggelis: AN ACT relating to taxation.

**SB 8**, by Senator Ware: AN ACT relating to fourth-class cities and annexing or striking off territory thereof.

**SB 9**, by Senators Duffy, Young, Bonn and McCann: AN ACT relating to the levy of license taxes in cities of the first class; and disposition of same among the sinking fund, general fund and special capital fund account of such cities; restrictions on ad valorem tax for sinking fund purposes, and the issuance and enforcement of licenses.

**SB 10**, by Senator Howard: AN ACT relating to Inheritance and Estate Taxes and repealing KRS Chapter 140.

**SB 11**, by Senator Howard: AN ACT relating to liability for the operation of motor vehicles.

**SB 12**, by Senator Freeman: AN ACT relating to the conduct and records of governmental meetings.

**SB 13**, by Senator Greene: AN ACT concerning alcoholic beverages in relation to minors.

The Committee appointed to wait on the Governor and the House reported that the Governor was ready to deliver a message to a Joint Session of the General Assembly.

Senator Bassett moved that the Senate proceed to the House of Representatives to hear the message to be delivered by the Governor. Agreed.

## Joint Session

The Senate proceeded to the House of Representatives, where they entered upon the floor. The Honorable Harry Lee Waterfield, Lieutenant Governor and President of the Senate, assumed the chair and called the Joint Session to order.

Prayer by the Reverend Fred T. Moffatt of the First Baptist Church of Frankfort.

Representative Everett moved that the roll call be dispensed with. Agreed.

The Committee appointed to wait upon the Governor appeared with His Excellency, Albert B. Chandler, Governor of the Commonwealth of Kentucky, who took his place at the Clerk's desk and addressed the General Assembly as follows:

In obedience to the mandates of the Constitution of our Commonwealth, I appear here on this the first day of the meeting of the 112th regular session of the General Assembly to present information concerning the state of the Commonwealth and to recommend for the consideration of the General Assembly such measures as are deemed expedient.

Today marks the fourth time in my lifetime that I have spoken to a joint session of the General Assembly of Kentucky at the opening of its regular biennial session. I addressed first the 101st regular session in 1936; in 1938 I was privileged to open the 102nd regular session. In 1956, the 111th – and now it is my pleasure and very great honor to address you ladies and gentlemen of the 112th on the first day of your opening.

At the outset, I want to congratulate you and each of you on the opportunity that has been given to you to serve your people as a member of the Legislature. It is a high honor and a high privilege to be selected by the people of your counties and districts as their representatives, and I am certain that they are depending on you to represent them unselfishly and in their best interests.

During the past two years of my Administration, progress has been made in the solution of the problems of our people, but there is still much to be done. It is neither my purpose nor desire on this occasion to spend too much time in complimenting ourselves on the achievements of the past, but rather to point specifically to the problems of the future which remain yet unsolved and to ask that you join with me in devoting our time and our energies to the tasks that lie ahead of us.

The problems of the more than three million people who live in this Commonwealth are our special concerns. The actions taken here can have a tremendous impact on the health, welfare, and education of our people both now and in the future.

The record shows that during the last two years, the Commonwealth of Kentucky has made tremendous progress because of the support of the 1956 Legislature. Also, Kentucky has realized an increasingly larger share of the Nation's prosperity, and the result of this economic progress has been an improved standard of living generally for the people of the Commonwealth.

The total personal income of Kentucky's three million population reached nearly four billions of dollars in 1956 and that amount will be exceeded when the figures are totaled for 1957. When divided up on a per capita income basis, the year 1956 was a record high, representing the fifth highest rate of gain in the Nation since 1950. The indications are that the 1957 figures will place us ahead of the record year of 1956.

## ECONOMIC AND INDUSTRIAL DEVELOPMENT

A significant feature of the state's economic growth has been our desire to create a better balance between agriculture and industry. While Kentucky remains an important agricultural state, it has taken lengthening strides in manufacturing during the past two years. Since January 1, 1956, 181 new or expanded manufacturing plants have created 18,605 new jobs paying approximately 65 millions of dollars annually in salaries and wages, and these developments represent capital investments of more than 165 millions of dollars.

This industrial boom and the resultant growth of industry in Kentucky is traceable directly to the fine work of Kentucky's Department of Economic Development headed by Commissioner George W. Hubley, Jr.

We have created in Kentucky, and we intend to keep, a climate favorable and friendly to industry. However, industry should expect also to carry its fair share of the burdens. One of the contributing factors to the manifest desire of industry to locate in Kentucky has been the fact that we have had the greatest measure of peace between capital and labor that we have known in this generation. This is no accident. Hope is earnestly expressed that nothing will be done by you to disturb the present amicable relationship between labor and industry. The Department of Industrial Relations, headed by Commissioner Oscar Coke, has done an admirable job in bringing about the pleasant relationships which we now enjoy in Kentucky. Labor unrest in Kentucky has reached an absolute minimum.

## MINES AND MINERALS

The Department of Mines and Minerals, headed by Mr. James Phalan, has made great strides in the promotion of safety. Coal production has increased approximately thirty per cent (30%) during the two years of the present Administration over the previous two years, without any increase of inspection personnel. Indeed, it is commendable that of all departmental requests for funds for the next biennium, the Department of Mines and Minerals is the only department that made a request for reduced funds.

## EDUCATION

During the campaign of 1955, I made a solemn pledge to all people that I would cause to be improved the educational opportunities of Kentucky's children. I pledged the people that with your help we would provide a sufficient amount of money to implement fully the Minimum Foundation Program for Education. In order to show you how successful we have been in keeping our pledge to the people, I list herewith some of the accomplishments of our Administration in the field of education from 1956-58 as reported to me by Dr. Robert Martin, Superintendent of Public Instruction.

1. The Foundation Program was fully financed, providing state funds amounting to $54,785,500 the first year and $57,785,500 during the present year.

2. The Department of Education's budget was increased to provide more staff.

3. The Teachers' Retirement System was fully financed. This gives Kentucky, potentially, one of the better retirement systems in the Nation.

4. A full nine-month term has been provided in all the school districts in the state.

5. Average salaries of instructional personnel have increased from about $2,400 in 1955-56 to $2,943 in 1956-57 and over $3,200 in 1957-58.

6. Nearly 2,000 additional teachers have been employed in the last two years.

7. In 1956-57, forty-four new elementary and fourteen new high schools were constructed, compared to twenty-three new elementary and two high schools the previous year. Over $31,678,395 was spent for such buildings, new sites, additions and remodeling and new equipment last year, more than twice the amount expended the preceding year.

8. 63% of the graduates of Kentucky colleges who were prepared to teach remained in the state last year. This represented more than a 50% improvement over 1955.

9. A Practical Nurse Training Program has been established and is working effectively to provide the nurses needed in so many areas of our state.

10. The number of units for special education for handicapped children has increased.

11. 60% of the teachers in Kentucky schools now have the bachelor's degree or higher training.

In the proposed budget, the Minimum Foundation and the Teachers' Retirement Programs are fully financed and further implemented. We are going to continue this improved program of education in accordance with our promise to the people, and it has the wholehearted support of the people of the Commonwealth. Indeed, we have not left the school people any excuses for failure to give our children a better education.

Last year we established a Citizens' Committee on Vocational Rehabilitation Services of the Handicapped which has been most helpful to us in the improvement of this program. We are not the number one state in rehabilitation of the handicapped, but through the money which you made available to us, were able to make more percentage gain during 1957 over 1955 than any state in the nation. The appropriation for 1956-58 biennium was the first appropriation in the history of Kentucky which made it possible for us to match fully the Federal moneys available for the rehabilitation program. For each 30¢ the state appropriates, the Federal Government is matching it with 70¢. The improvement in rehabilitation services represents a significant advance for our state.

## HIGHWAYS

We are well under way with the greatest highway program in the history of our Commonwealth. Progress, undreamed of a short time ago, is in the offing. We literally are going to change the face of Kentucky with our expanding roadbuilding program.

This program cannot haphazardly be put into operation. It is a project to test the caliber of the best brains and management. We are fortunate to have now Dr. Jim Martin at the helm of our Department of Highways whose reputation as an administrator is nationally known.

It has required much planning and hard work by a great many people. It will require more.

You will recall it was just two years ago – before the Congress had enacted the Federal-Aid Highway Act of 1956—that I recommended to the Legislature a $100,000,000 bond issue for highway construction because I felt we should get ready to take advantage of the additional Federal aid which I reasoned would become available.

The General Assembly of 1956 voted to submit the proposed $100,000,000 road bond issue for a vote of our people. History was made when the people voted for the bond issue by a margin of approximately six to one. Never before has any issue won approval by so large a margin in our state! It resulted from a concerted effort by many people – Democrats and Republicans.

This past year we have made a good start in developing our highway program. Much engineering work was done; this year and the years ahead will see this huge roadbuilding program accelerated.

In November we sold the first $35,000,000 worth of bonds despite the "tight money" market.

Kentucky sold bonds at an interest rate of 2.9676% at a time when some other states were unable to obtain bids on offerings of a similar nature. As a consequence, we were able to invest immediately the entire proceeds in U. S. government securities at an interest rate of 3.3% which would earn on an annual basis a profit in excess of $113,000. Many people contributed substantially to the success of the offering. At this time I should like again to express my appreciation to the bankers of Kentucky without whose help we would have had trouble. This first bond sale is a tribute to the fine credit rating we have been able to establish for the Commonwealth. Soon we intend to offer more bonds.

Our Department of Highways, in line with my instructions, is mapping a careful highway development and maintenance program. This is being done with the engineering aid of the Automotive Safety Foundation and the full approval of my Advisory Committee on Highways, which is composed of outstanding Kentuckians.

Careful schedules are being prepared for each class of highways —interstate, primary, urban, secondary, and rural, so that:

1. All phases of highway construction can move forward on a stabilized basis.
2. All sections of the state will profit from the economic impact resulting from the highway program.

The Department of Highways, with the aid of the Griffenhagen organization, is getting its house in order to do its total assignment—efficiently and economically.

The department lacks clear authority to do construction with its own forces and personnel except after first inviting bids and failing to get one that is satisfactory.

Generally speaking, competitive bids are wise. But there are recurring conditions under which this method is too slow or too expensive – especially where access roads are needed quickly to encourage new industrial development, where roads or bridges require reconstruction because of flood or other emergencies, and where projects are too small to stimulate competitive interest among contractors.

I recommend legislation to permit such restricted force-account construction by the Department of Highways.

Our goal is great but our determination also is great – and, we will succeed!

## HEALTH

December 12, 1957, was a memorable day for Kentucky. On that day ground was broken for the Medical Science Building for our new Medical Center. When completed, it will be one of the most modern and finest in the nation. The very newest techniques in medical, surgical and nursing training will be utilized. I need not dwell here upon the great contribution the General Assembly made when funds were voted at the last session to create this great milestone, marking the beginning of a revolution in the health and welfare of our people.

In recent years there has been too much fragmentation of the health services of the Commonwealth which has become very costly. I am by Executive Order, establishing a Health Services Council, on which all segments of the health program are represented, to make studies and recommendations to determine if cooperative programs or consolidation of health agencies would provide economical improvement of health.

This council will be charged also with responsibility for continued study of the organization and administration of our health agencies and services.

Many of our citizens realize that Kentucky has been a pioneer in matters of health, medical science and the protection of the health of her people. The program today, under Dr. Teague's direction, is making remarkable progress.

## MENTAL HEALTH

Because of increased appropriations for the Mental Health Program and improved treatments under the directions of Dr. Harold McPheeters, no state made a better record in improvement of its treatment of its mentally ill and reducing inmate population than the Commonwealth of Kentucky during the last two years. The present population of the mental hospitals is 7,200, a reduction from 8,000. Dr. McPhetters' staff has adopted a slogan of "6,000 only by 1960." This accomplishment will make all of us justifiably proud.

## T. B. HOSPITALS

Also, it is with pride that we report that during the past two years the T. B. hospitals have had their most successful period of operation. Hospitalization and surgery are now available in the matter of a few days to all applicants, inasmuch as waiting lists have been virtually eliminated. With the Health Department's reorganization, the T. B. problem in Kentucky will be closer to the complete solution.

## DISABLED EX-SERVICE MEN

The Executive Budget which was adopted by the 1956 General Assembly increased the appropriations for the Disabled Ex-Service Men's Board and made it possible for the contracts to be negotiated with the three major veterans organizations in Kentucky which furnish trained service officers in all of the communities where they had active local units. Since these contracts have been in existence, the veterans of Kentucky have benefited greatly because of the availability of local persons who could advise with them concerning their problems, and who could file for them the various forms required by the Veterans Administration in order to entitle the veterns to benefits granted by the Congress. This method of expanding the services of the Disabled Ex-Service Men's Board has proved so successful that to discontinue it would be penalizing the veterans of Kentucky to a great extent.

## UTILITY REGULATION

The Public Service Commission, headed by Mr. James F. Gordon, has shaped its policies to help improve the economic development of our state. The objectives of the commission have been to insure more and better utility services at prices calculated to induce the utility companies to provide them while protecting consumers from a too-rapid increase in the cost of living.

## CONSERVATION

Under the able leadership of Commissioner Laban Jackson, the Department of Conservation during the past two years has maintained the excellent parks program and has improved the management. In the minds of some, the public parks are the only function of the Department of Conservation. However, Commissioner Jackson has put increased emphasis on the conservation of our natural resources. Greater emphasis has been placed on the small watershed program, and Kentucky is now leading the nation in this Federal-state program. Over the past two years, seven watersheds have been accepted by the Federal Government and are now in the various stages of planning and construction.

This department also has increased and expanded fire protection to the timberland owners. Results of this program will be measured in the millions of dollars for our children.

Mrs. Violet Kilgore has supervised the operation of clean, efficient, satisfactory park facilities. Compliments on the conditions at the state parks are being received constantly by our office. Our parks are not operated primarily to make a profit but to provide recreation and enjoyment for our people and the tourists who visit our beautiful state. However, every effort is being made to make them pay their own way.

## DEPARTMENT OF PUBLIC RELATIONS

In helping to advertise the beauties and charm of Kentucky, we have also been fortunate in having Mr. G. M. Pedley, whose Department of Public Relations has done a magnificent job.

## DEPARTMENT OF FISH AND WILDLIFE

The Department of Fish and Wildlife Resources was established under the Reorganizational Act of 1936. During the twenty years since its establishment, Kentucky has established fourteen big game refuges and 150 small farm refuges. Fishing is better in Kentucky than it ever has been so in hunting. This, in part is due to the large lakes which were constructed by both TVA and Army Engineers. In addition to these public projects, Kentucky has the finest farm-pond program in the United States. Already more than 50,000 farm ponds have been stocked free of charge to the owner. Commissioner Earl Wallace can be proud of the fact that many states are copying the program now in effect in Kentucky.

## DEPARTMENT OF MILITARY AFFAIRS

The Military Department of the Commonwealth has been in the capable hands of Major General J. J. B. Williams during the last two years, and its members are to be commended for their devotion to the Commonwealth's interests on every assignment that has been given them. The Air National Guard, which was established in 1956, now under the direction of General Tom Marshall, has improved the defense potential, not only of our Commonwealth, but also of the nation.

## CHILD WELFARE

The Legislature in 1956 engaged in quite a fight over the placing and conduct of the Children's Bureau in Kentucky. Acting on my specific recommendation, a law was passed making arrangements for the care of Kentucky's dependent and neglected children. I am pleased to report to you now that it has been highly successful.

The Advisory Committee on Child Welfare, headed by the Reverend Walter House, and composed of ministers of all faiths, has endorsed the separation of delinquents from dependents, and their recommendations regarding the use of facilities are being followed. These devoted men of God make periodic inspections of all the homes for the children, and we are proud to report to you that their reports are all favorable regarding the progress made by Mr. Vego Barnes and Mr. Charles Allphin in handling the problems of our children. After 20 years of experience, Mr. Vego continues to manage the Department of Economic Security in such a way that makes him the envy of those in comparable positions all over the United States.

## WELFARE AND CORRECTIONS

**Parole Board.** The present Parole Board, operating under the provisions of the Model Probation and Parole Law which I sponsored at the 1956 Legislature, has increased by almost sixty per cent the number of parolees over the preceding year. It is noteworthy that, under the able leadership of Mr. Walter Ferguson and Director Ryle, the parole violations have not increased. This returning of men and women to a useful place in society without penalizing society must be commended.

**Department of Welfare.** Under the direction of Mr. Charles Allphin, the Department of Welfare has been able to operate the prisons and other institutions under their direction during the past two years in a manner that uses the moneys judicially and for the greatest possible benefit for those committed to the jurisdiction of the Department of Welfare.

## DEPARTMENT OF PUBLIC SAFETY

The Department of Public Safety was established by the 1956 General Assembly. For the first time, the state entered the field of accident control on a state-wide basis. A Division of Accident Prevention is interested in the reduction of accidents in the home, school, industry, on the farm, and especially on the highways.

At my specific request, the 1956 Legislature authorized an increase in the personnel of the State Police by 105. During the past two years under the direction, first, of Commissioner Widener and now Don Sturgill, the State Police of the Commonwealth have made an outstanding record. A tremendous fight has been made to stop the mass slaughter of our fellow citizens along the highways, and by their actions they have proved that they are courteous, well-trained, sober and efficient public servants, and this record has been made by comparatively young men who are dedicated to the public service. The Commonwealth owes a debt of gratitude to Commissioners Widener and Sturgill, Mr. James Bassett, Mr. Paul Smith and others like them.

The 1956 Legislature at my request created a Division of Fire Prevention in the Department of Public Safety. This new division, with its competent and trained arson inspectors, increased the number of fire inspections from 11,000 to 14,000 during one year.

The problem of stolen cars and clear titles to motor vehicles has concerned law-enforcement officers, county clerks, and those buying, selling and financing cars. The Department of Public Safety has recommended adoption of a certificate of title law. This proposal has raised questions of importance, some of which have not been answered to date but which must be answered or the program is in trouble.

## DEPARTMENT OF PERSONNEL

The 1956 Legislature created a Department of Personnel. This department, headed by Mr. William Nave, gave the state for the first time a full-time Commissioner of Personnel.

Shortly after July 1, 1956, we began a state-wide classification and pay study for all positions in the state service. The primary accomplishments of this study were to classify jobs so that employees would receive comparable salaries for comparable work.

Also, the 1956 Legislature passed a Retirement Act which permits the employees with long tenure some security in their old age. This program has been put into effect, and a large number of employees who have served the state long and devotedly are now receiving benefits.

## DEPARTMENT OF AGRICULTURE

Since Kentucky has been basically an agricultural state, it is essential that added emphasis, comparable to the efforts applied to other segments of the economy, be continued for this important industry. During the past two years, we have seen the greatest advance in this direction than in any comparable period in the history of the state.

The acquisition of the Coldstream Farm in Fayette County for the University of Kentucky will fulfill a long-standing need for expansion by the university in the field of agricultural research. The growth of the university campus in recent years caused a gradual encroachment upon the land of the experimental farm. Recognizing this, in 1956 I appointed a committee composed of Dr. Frank Dickey, President of the University of Kentucky, Dean Welch, Commissioner of Agriculture Ben Butler, Dr. James W. Martin, and Dr. Frank Peterson and charged them with the responsibility of seeking out the best land available for a new experimental farm. After exhaustive soil tests, in several areas of Fayette County, this committee recommended the Coldstream Farm to be best suited for our purposes. Accordingly, competent and independent appraisers were appointed to appraise the property. Acting upon their appraisal, arrangements for purchase were made at a price of about $1,900,000. The university now has 1,100 acres of fine Blue Grass land and $1,000,000 worth of improvements for its agricultural research program. It is gratifying to report to you that this property could not now be purchased for a figure anywhere near approaching the amount which was paid for it.

Two years ago we laid plans and provided resources to implement the most expanded Brucellosis program the state has ever known. When this program got under way, it was determined that the rate of infection in our cattle was near 4%, the third highest in the nation. This makes progress more difficult and more costly. We shall continue to exert our efforts toward the ultimate goal of eradication of Bangs disease.

In the field of promotion, the more important activities consist of the farm youth shows and the adult purebred cattle shows. The district 4-H and FFA dairy and beef shows have continued to grow in size and popularity. They are one of our best tools in promoting good livestock and expanding this industry in the state. We need to continue the improvement and expansion of these shows. In addition to these, we must give added attention to market hog shows, sheep shows, cattle shows, and soil-judging contests.

Over $12,000,000 worth of Federal surplus food was distributed the past year to the needy people in 60 counties.

Reports indicate that the Mosquito Control Program, approved by the 1956 Legislature, brought relief for wide areas in Western Kentucky. The severity of the pests was reduced greatly and sleeping sickness outbreaks were halted. The department is continuing this program.

For the first time in a long time, the people of Kentucky have had a trained farmer as their Commissioner of Agriculture who is devoted to improving the lot of the farmer. Mr. Ben Butler is to be commended for his activity of the past two years.

## STATE FAIR AND EXPOSITION CENTER

It is my duty to report to you that the State Fair and Exposition Center in Louisville has not produced sufficient net revenue to meet the bond sinking fund requirements. In order to meet these requirements and maintain the credit standing of our Commonwealth, which must be done at all costs, it has been necessary to divert fair board operating surplus on hand before the center was occupied, proceeds from fairgrounds land sales, and general fund capital construction money in the amount of $400,000 to date. I am recommending that you provide an additional $176,000 necessary to put sinking fund requirements on a current basis on July 1, 1958. In other words, your State Fair and Exposition Center in the first three years of operation will have failed by $576,000 to make enough money to meet the bond payments. If anticipated revenue from rentals of the proposed hotel and other concessions materialize, requirements for the sinking fund payment on July 1, 1959, also will be available.

## BUSINESS REGULATION

The business regulatory departments, such as Banking, under the direction of a trained banker, Mr. Albert Phillips, the Insurance Department under the supervision of Mr. Cad Thurman, the Alcoholic Beverage Control Department headed by Mr. Alfred Portwood, and the Motor Transportation Department under Mr. Charles Blackburn, have all regulated successfully the industries assigned to their particular departments in the public interest with a minimum of interference to private operation.

## LEGISLATIVE RESEARCH

I am impressed particularly with the accomplishments of our Legislative Research Commission during the first two years of my Administration. Confronted with less available funds and a staff disrupted by resignations and low morale, Lieutenant Governor Waterfield, as Chairman and Director, reorganized the Commission's staff into a productive agency of government to handle the studies assigned by you in 1956. As my full-time associate and deputy, his services have been invaluable, and I wish to acknowledge before you his unfailing aid and assistance. His dual role in government has not been easy.

The General Assembly has modernized and enlarged its "between sessions" functions which likewise have increased the demands made on the commission. Never before has it been possible for Senators and Representatives to obtain the helpful assistance from this servicing agency which the staff of the commission now provides.

## REVENUES AND EXPENDITURES

Revenue Commissioner James Luckett has given me the following estimates regarding the General Fund revenue collections for the following years:

### General Fund Revenue Collections

| | |
|---|---|
| 1956-57 Actual | $126,643,275.34 |
| 1957-58 Estimated | $130,000,000.00 |
| 1958-59 Estimated | $131,000,000.00 |
| 1959-60 Estimated | $136,000,000.00 |

**Unappropriated General Fund Surplus**

(as reported by Walter Bromley, Director
of Accounts, Department of Finance)

| | |
|---|---|
| June 30, 1956 Actual | $13,832,074.21 |
| June 30, 1957 Actual | $19,260,531.94 |
| December 31, 1957<br>(Based on revenue predictions) | $ 22,456,571.03 |
| June 30, 1958 Estimated | $ 22,293,699.00 |

Now I come to a tedious, but most important part of my message to you. I wish to review with you the major features of the proposed budget for the forthcoming biennium.

The Unappropriated General Fund surplus as of December 31, 1957, totaled approximately $22,500,000. This reflects frugal and wise management of our financial affairs. Based on an estimated revenue of $131,000,000 for the first year and $136,000,000 for the second year of the biennium, I wish to present to you a budget which has been prepared carefully after much review and study of the needs of our people. I realize that there are other fields demanding money, but we must allocate with prudence the funds available to do the most good for the welfare, health and education of all the people of Kentucky.

The major categories of the expenditure are shown in Table II. (See Table)

Of the total recommended General Fund budget for the next biennium for recurring costs (not including capital construction, which will be spent for all functions but primarily for education), the percentages are 9.9% for General Government, 25.6% for Health and Welfare, 62.9% for Education, and 1.6% for Agriculture and Conservation.

The changing character of our life and problems is reflected in the highlights of the programs affected by this budget.

## DEPARTMENT OF AERONAUTICS

The recommended budget for the Department of Aeronautics includes, for the first time, $10,000 each year for the Kentucky wing of the Civil Air Patrol in emergency, disaster, and rescue work.

## DEPARTMENT OF PUBLIC SAFETY

The recommended appropriation is an increase of $2,262,718 over the present biennium. This will make possible the addition of 105 troopers, bringing to 404 the number of uniformed officers who patrol the highways. This recommendation will provide for the construction of a state police training school, crime laboratory, and post headquarters building at Frankfort.

## COMPARISON OF GENERAL FUND APPROPRIATIONS

| | 1954-55 | 1955-56 | Biennial Per Cent | 1956-57 | 1957-58 | Biennial Per Cent | 1958-59 | 1959-60 | Biennial Per Cent |
|---|---|---|---|---|---|---|---|---|---|
| General Government | $10,303,817 | $11,438,674 | 12.6% | $11,376,764 | $12,554,248 | 10.0% | $12,951,240 | $13,331,850 | 9.9% |
| Health and Welfare | 24,959,781 | 26,739,025 | 30.0% | 30,124,584 | 31,670,482 | 25.9% | 33,777,105 | 34,383,355 | 25.6% |
| Education | 48,376,007 | 47,869,494 | 55.9% | 72,700,632 | 76,209,115 | 62.4% | 81,756,360 | 85,883,760 | 62.9% |
| Foundation Program | (31,785,500)* | (34,785,500)* | | (54,207,900) | (57,201,900) | | (60,105,700) | (62,481,300) | |
| Agriculture and Conservation | 1,292,825 | 1,368,950 | 1.5% | 2,071,455 | 1,996,475 | 1.7% | 2,182,880 | 2,106,310 | 1.6% |
| Other | 6,958,700** | 11,265,414** | | 7,917,819** | 6,161,506** | | 17,593,500** | 2,450,000** | |
| TOTAL | $91,891,130 | $98,681,557 | 100.0% | $124,191,254 | $128,591,826 | 100.0% | $148,261,085 | $138,155,275 | 100.0% |

*Figures for 1954-55 and 1955-56 are totals for the Per Capita-Equalization Appropriation.
**Not included in percentage calculations since capital construction funds are in all functions.

## DEPARTMENT OF ECONOMIC DEVELOPMENT

The Department of Economic Development has set up a new Division of Nuclear Energy Information which was financed by the Governor's Emergency Fund. This department's efforts will be strengthened to bring desirable new industry into the state by promoting utilization of nuclear energy products and by publicizing nuclear achievements and opportunities.

Provision is made in the budget for added emphasis in the areas of plant-location activities and industrial research.

Also, there is a substantial increase in local planning and zoning service, and regional planning service will become available for the first time.

## DEPARTMENT OF REVENUE

Funds for the adequate enforcement of all taxes have been provided for in the recommended appropriations for the Department of Revenue. To insure better compliance with the Highway Motor Fuel Usage Tax, the Department of Revenue will add ten field representatives to audit the records of gasoline refiners, distributors and interstate truckers. With the aid of information gained from the recent road block survey, they will increase receipts in the road fund many times the cost of their salaries and expenses. Total recommended appropriations for the 1958-60 biennium represent an increase of $740,600 over the present biennium.

## DEPARTMENT OF PUBLIC RELATIONS

The recommended general fund appropriation for the Department of Public Relations includes $200,000 for a program of increased emphasis on national advertising and promotional work designed to attract new industry, increase tourism, and otherwise to lay a firm foundation on which a more diversified economy can be built and $100,000 for Tourist Promotion to be spent on the recommendation of the Governor's Committee on Tourist Promotion.

## DEPARTMENT OF WELFARE

The recommended appropriation for the 1958-60 biennium for the Department of Welfare provides for an increase of over $1,108,000 over the 1956-58 appropriation. The increase to this department will allow the penal and children's institutions to implement the recent salary adjustment plan, provides for an increase in the number of scoial workers in the Division of Probation and Parole, provides for an increase in security at the Kentucky State Penitentiary, and provides for an increase in the number of supervisors at Kentucky Village.

## DEPARTMENT OF ECONOMIC SECURITY

$23,420,000 was appropriated this biennium, and this is increased to $25,380,000 for the 1958-60 biennium to provide public assistance for Kentucky's people in need.

The 1956 Kentucky General Assembly passed legislation enabling this state to begin a fourth public assistance program—The Aid to the Permanently and Totally Disabled. This program cost $929,570 this biennium, and we are making available $2,007,940 during the 1958-60 biennium. This program was estimated originally to level off in Kentucky at about 5,000 recipients, but is now estimated to reach around 9,000 before starting to level off.

## DEPARTMENT OF MENTAL HEALTH

The Department of Mental Health estimated at the beginning of the present biennium that the patient population of the mental hospitals would reach 8,100 this fiscal year; however, through the efforts of the devoted men and women in this program, the actual population is nearer 7,200, and as I said before, their slogan is "6,000 by 1960." The budget I propose for Mental Health represents an increase of over $2,250,000. A part of this increase will be used to bring salaries into line with those of other agencies.

At present approximately 31% of the patients admitted to our mental hospitals are over 65. Many of them could be cared for in foster nursing homes on public assistance payments. We provide funds for the development of such a program. 1300 patients are mentally retarded rather than disturbed. Funds are provided for the development of a training program for these retarded people in order that they may be placed in foster homes.

The best method of combatting mental illness is to prevent it. The mental health program has recognized this in the establishment of a Division of Community Services. Funds are provided for additional personnel and additional clinics for this program.

## DEPARTMENT OF HEALTH

The budget provides for an exceptional public health program for Kentucky. Last July the Public Health Foundation Program was initiated. This will enable every county to have public health services unsurpassed anywhere in the United States. 51 counties have already furnished sufficient local funds to qualify. The appropriations I recommend will continue the program in those counties and will provide for 11 additional counties which are expected to raise the required local effort each year of the biennium.

Funds have been provided in the budget for improved inspection and regulation of places of work so that occupational health hazards may be eliminated.

My plan also includes moving the Department of Health to Frankfort in 1959 into a new, modern building, housing all health functions.

## HIGHER EDUCATION

In this budget for higher education, my recommendation provides increases to take care of the most pressing needs which are increases in faculty salaries, employment of additional faculty and funds for increased costs incident to a predicted increase in enrollment of 10% each year of the biennium. For increase in faculty salaries and the employment of additional faculty, this budget provides for $1,856,000 for the biennium.

1. **Five State Colleges.** We recommend appropriations for the 1958-60 biennium providing for an increase of $2,370,760. The recommended appropriations will take care of the anticipated increased enrollments and will allow **substantial salary adjustments** for faculties in each year of the biennium. The enrollments at our five state colleges have increased from 7,554 students in the fall of 1955 to 9,308 students in the fall of 1957.

2. **University of Kentucky.** (a) **Division of Colleges.** The recommended appropriation for the Division of Colleges for the 1958-60 biennium is $11,740,000, or an increase of $2,002,600, over the current biennium. The recommended increase will take care of increased enrollments, will allow **substantial salary adjustments** for faculty, establish an I.B.M. computing center, finance the operation of the Ashland Extension Center both years of the biennium, and finance the operation of the Henderson and Cumberland Extension Centers in 1959-60. The university enrollment has increased from 7,183 students in the fall of 1955 to 8,420 students in the fall of 1957. Increases of 10% are anticipated for each of the next two years.

(b) **Experiment Station.** The recommended appropriation of $1,623,000 for the 1958-60 biennium is an increase of $207,000 over the 1956-58 biennium appropriation.

(c) **Agriculture Extension.** The recommended appropriation is an increase of $247,000 over the 1956-58 appropriation.

(d) **Medical Center.** The recommended appropriation will allow for a gradual buildup of faculty and staff in 1958-59 and for the opening of the Colleges of Medicine and Nursing in 1959-60. The size of the first year classes are estimated at 40 students in medicine and thirty students in nursing.

## PRIMARY AND SECONDARY EDUCATION
### FOUNDATION PROGRAM

| | | |
|---|---|---|
| 1954-55 | $31,785,500 | |
| 1955-56 | $34,785,500 | |
| 1956-57 | $54,207,900 | |
| 1957-58 | $57,201,900 | Biennium increase $44,838,800 |
| 1958-59 | $60,105,700 | |
| 1959-60 | $62,481,300 | Biennium increase $11,177,200 |

The recommendation is an 84% increase for 1958-60 over 1954-56, the biennium prior to the Foundation Program. Dr. Robert Martin has told the Division of the Budget people that, in his opinion, these recommended appropriations will fully finance the Foundation for the coming two years. An additional 5,000 children in our public school system are provided for in each year of the coming biennium, an additional 650 classroom units each year, an additional 135 transportation units each year, and for an increase in the average salary of teachers as a result of increased training. The recommendation also provides an increase of approximately $300,000 in each year of the biennium to meet the increased costs of the $80 and per capita guarantee provisions. The recommendation also anticipates that Federal grants in lieu of taxes will become a part of the required local effort.

(a) **Teachers' Retirement System.** For the support of the Teachers' Retirement System during the next two years, I recommend $9,111,000. This will provide an increase of $753,000 over the current biennium. It will fully finance the anticipated growth in the program resulting from an increase in the number and salary level of teachers and will continue to meet the Commonwealth's obligation for "prior service."

Taken together, the fully financed foundation program and the fully financed teachers' retirement system will make teaching in Kentucky a far more attractive profession, and will be better able to hold the fine teachers we have and to attract more young people to the task of educating our children.

**(b) Free Textbooks.** The recommended appropriation for free textbooks is an increase of $332,000. The additional funds are needed because of increased enrollments and increases in the price of books.

(c) **Vocational Education.** The recommended appropriation for vocational education provides for a continuation of present programs at the three state and ten area trade schools.

(d) **Rehabilitation Services.** The budget bill calls for sufficient funds to enable Kentucky to receive the maximum support available from the Federal Government's contribution of about $2.00 for each state dollar for vocational rehabilitation. This will provide increases for counseling services and medical and educational assistance to the physically or mentally disabled.

(e) **Lincoln Institute.** Lincoln Institute provides high school education for about 500 Negro youths from approximately 65 counties and independent districts where adequate separate facilities have not been available in the past and provides teacher training facilities for Kentucky State College. Lincoln Institute continues to serve the educational needs of Negro youth during this period of transition toward integration. It has been a vital factor in the successful integration of many of our Kentucky school systems.

(f) **School for the Deaf.**
Increase $149,285
Enrollment 342

In 1957-58, funds were made available for the construction of a new girls' vocational building at the School for the Deaf. The new building is scheduled to be opened in the fall of 1958 and will provide facilities for considerable expansion in the vocational curriculum. The recommendation provides funds for three new areas of vocational training. Provision is made to bring the maintenance program of the school up to more desirable standards.

## DEPARTMENT OF CONSERVATION

An increase of $349,860 over the 1956-58 biennium (not including $250,000 capital outlay) is made for the Department of Conservation. Increase of these funds will provide for additional planning crews to accelerate the small watershed program. Provision is also made for greater forest fire protection, including the addition of the Counties of Rockcastle and Breckinridge. We will also expand our nursery facilities, making possible the yearly production of 25,000,000 seedlings for reforestration.

## CAPITAL CONSTRUCTION

The recommendation for capital outlay is about $20,000,000 for the biennium. Of that amount, $12,000,000 is included for the Medical Center at the University of Kentucky. In order to meet our construction timetable, an appropriation of that amount will be needed. However, I have instructed the Commissioner of Finance to limit expenditures to about $6,000,000 for the biennium. $6,000,000 is recommended for the purpose of encumbering construction contracts for the project because Federal Hill-Burton Act funds, for which the project has been approved, will not be totally available at the time we plan to contract for construction of the hospital.

Funds are provided for the construction of a health services building in Frankfort to provide facilities for the Department of Health, the central offices of the Department of Mental Health and the Tuberculosis Hospital Commission, and the Board of Nursing Education and Nurse Registration.

Funds are also provided for the construction of the University of Kentucky Extension Center buildings at Covington, Henderson, and Cumberland; the balance necessary to complete the purchase of the Coldstream Farm for the University of Kentucky Agricultural Experiment Station; the county health centers; and the development of additional recreational areas.

Since the amount of funds available for capital outlay purposes is far less than the total needs, I am recommending that, if the general fund revenues for the 1957-58 and 1958-59 fiscal years exceed the official estimated revenues for those years, respectively, the excess be appropriated for capital construction purposes. If such excess over estimates is sufficient to warrant the awarding of a contract, we will regard a new science building at the University of Kentucky a top priority.

## RECOMMENDATIONS

And now Ladies and Gentlemen of the General Assembly, I wish to make to you the following definite and specific recommendations:

1. We do not need any additional or new taxes during 1958 or in the foreseeable future. I ask the Legislature specifically not to repeal any of the present existing tax laws which are on the statute books except the income tax cut bill which is herewith presented to you.

2. I recommend the immediate adoption of the Executive Budget which I present to you herewith and which has been most carefully studied and considered by the Division of the Budget, the Commissioner of Finance, and the Governor. I recommend the passage of a tax-cut bill which is also handed you this day and which, if passed, would give personal income taxpayers an across-the-board cut and which would entitle everyone to have a share. It would also drop out of the income-tax-paying class about 50,000 of our citizens who are now in the so-called lower brackets.

3. I recommend that the so-called judiciary reorganization bill be considered carefully by the Legislature and that it **not** be passed until it has been weighed and tested carefully in all its aspects.

4. I recommend that the so-called absentee ballot law be repealed, or, if not entirely repealed, be made to apply only to servicemen absent from the Commonwealth because of required service in the military establishment of the United States.

5. I also recommend the establishment of a State Credit Authority or a little R.F.C. to guarantee a portion of funds advanced by lending agencies so as to assist in the attraction of industry.

6. I recommend the Legislative Research Commission be directed by you to make studies on the desirability and feasibility of legislation to provide for:

   (a) The centralized keeping of title certificates of motor vehicles along possible lines proposed by the Department of Public Safety so as to reduce theft of cars and assist in law enforcement.

   (b) The further extension of the merit system as now applicable to some employees to all state employees and to include possibly the Department of Highway employees.

7. I recommend the Legislative Research Commission be empowered with adequate funds to recodify our criminal law along with publishing a Criminal Code of Practice as requested by the Bar Association's Board of Bar Commissioners to supplement the Commission's publication of the Civil Code, to accomplish a more comprehensive bulk revision of our statute laws the last of which was accomplished 15 years ago, and that legislation be enacted to protect the Commission's administrative regulation service by restricting the sale or gift of informational copies except by consent of the Commission along with providing adequate hearing facilities to assist state departments and agencies.

8. The General Assembly should be informed better on the expanding Minimum Foundation Program and to this end, I recommend the Commission assign full time the services of a competent educational analyst.

9. We proposed five tax bills last time in order to retire the highway road bonds, and four of the bills were productive but one was disappointing. I recommend to the Legislature that they take a new look at that and see that the big trucks pay a sufficient amount of money so the bonds will not be in jeopardy.

And now we are ready to go to work again. You are well organized and will be well led. It goes without saying that the Executive Branch of the Government will give you its closest cooperation and support. I know the importance of cooperation between us, for it is only in the spirit of cooperation that we may achieve the benefits which will flow from our joint efforts. The Governor and the members of his staff and all those of us comprising the Executive Branch of State Government will be available to you for consultation, advice, and concerted actions. Due to the financial controls established by the Reorganization Act of 1936, we continue to have a balanced budget and our financial affairs are orderly managed. This has resulted in great confidence not only in Kentucky but in the whole country in the financial solvency of the Commonwealth and its government. Acting together in a spirit of unity and good will, our success is certain. It is not really important that I always have my way; neither is it important that you always have your way. What is important is that together we should find the right way.

May I again compliment each of you on your opportunity to serve our people. The lives of three million people can be benefited greatly by our actions here. It is my hope and prayer that each of us may make a maximum contribution to the health, welfare, and education of our people during our time and generation. There is a destiny that holds the lives of all of us in the hollow of His hand. We should ask Almighty God daily to bless the deliberations of the General Assembly, and I know that if we will lift up our hearts and our prayers to Him that He will guide our steps aright.

Mr. Everett moved that the Joint Session of the General Assembly do now dissolve. Agreed.

At an appointed hour, the President called the Senate to order.

Senator Bassett moved that the Senate adjourn until 11:00 a.m., Wednesday, January 8, 1958. Agreed.

## WEDNESDAY, JANUARY 8, 1958

## SECOND LEGISLATIVE DAY

The Senate was called to order by Lieutenant Governor Waterfield.

Prayer by the Reverend Edward L. Tullis of the First Methodist Church of Frankfort.

The roll was called. All members were present except Senator Cornett, who was granted leave of absence on motion of Senator Bassett.

The reading of the Journal for Tuesday, January 7, 1958, dispensed with and the same approved on motion of Senator Kidwell.

### Introductions

**SR 6,** by Senator Bassett: A CONCURRENT RESOLUTION relating to adjournment of the General Assembly.

*Be it enacted by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That when the House of Representatives and the Senate adjourn on Wednesday, January 8, 1958 they adjourn to meet on Monday, January 13, 1958 at 8:00 P.M.

Senator Basset moved adoption of **SR 6.** Agreed by voice vote.

Senator Bassett moved **SR** 4 to be considered at this time, and offered an Amendment to **SR 4.**

Senate Resolution 4 is amended by deletion in its entirety and substituting the following:

"A RESOLUTION authorizing and directing the Chairman of the Legislative Research Commission to procure a public address system for the Senate.

WHEREAS, the acoustics of the Senate Chamber are such that members of this body often experience difficulty in hearing that which is spoken by other members;

WHEREAS, the deliberations of the Senate are of such import as to demand that they be heard by each and every member; and

WHEREAS, it appears that the only practical manner in which the situation may be corrected is the utilization of a system of amplification such as that now employed in the House Chamber;

NOW, THEREFORE,

*Be it resolved by the Senate of the Commonwealth of Kentucky:*

Section 1. That the Chairman and Director of the Legislative

Research Commission be and is hereby authorized and directed to cause to be rented or purchased a public address system.

Section 2. That any such system have sufficient power and distribution of amplification as to be plainly and clearly audible over the entire Senate Chamber and have as many microphones as the Chairman and Director of the Legislative Research Commission shall, in his discretion, find necessary.

Section 3. That the Chairman and Director of the Legislative Research Commission cause such public address system to be installed in the Senate Chamber at the earliest possible date consistent with the exercise of sound economic discretion, preferably not later than January 13, 1958.

Senator Bassett moved the adoption of said Amendment. Adopted by voice vote.

Senator Bassett moved adoption of **SR 4** as amended. Adopted by voice vote.

Senator Bassett moved that **SR 3** be considered.

## Recess

Senator Ware moved that the Senate recess five minutes for the purpose of preparing Amendment to SR 3. Agreed.

The Senate was in recess for five minutes. At the appointed hour, the President called the Senate to order.

## Rules

Senator Ware offered the following Amendment to Senate Rules for 1958, **SR 3.**

Amendment No. 1: Committee Reports, Rule 39.

Amend printed copy of the Proposed Rules of the Senate of the Kentucky General Assembly for the 1958 Regular Session, by changing Rule 39, on page 9 to read as follows:

**Rule 39. Committee Reports.** Every committee should report the disposition of every bill and resolution referred to it as promptly as possible. Upon the call of standing committees, the Clerk or the Chairman or ranking member of the committee may report the bill in the following manner.

Senator Ware moved the adoption of said Amendment. Adopted by voice vote.

Senator Ware moved the adoption of **SR 3** as amended.

On roll call, the vote was: Yeas 36—Anggelis, Bassett, Blake, Blue, Bonn, Clay, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis and Young; nays 0.

## Introductions

**SR 7**, by Senator Clay: A CONCURRENT RESOLUTION urging the Corps of Engineers, Army of the United States, to complete, at the earliest practicable date, its final recommendations with respect to the improvements and development of the Kentucky River Valley, with particular emphasis to be placed on whether the Federal Government intends to build the proposed Jessamine Creek Dam on the Kentucky River.

WHEREAS, the General Assembly of this Commonwealth in the 1956 Regular Session, by the enactment of Chapter 104 of the 1956 Kentucky Acts (KRS 148.085), provided for a state park at the site of Fort Boonesboro, in Madison and Clark Counties, Kentucky, and authorized the Commissioner of Conservation of Kentucky to acquire up to two hundred acres at said site for said park;

WHEREAS, the improvement and development of the Kentucky River Valley is presently under a study by the Corps of Engineers, Army of the United States;

WHEREAS, the Congress of the United States of America has heretofore enacted legislation pursuant to which the creation of a high level dam at Jessamine Creek on the Kentucky River has been authorized, but the Congress has not appropriated any funds for the construction of same; and,

WHEREAS, the construction of said high level dam at Jessamine Creek would flood vast areas of valuable farm lands in Clark, Madison, Fayette, Jessamine, Estill and Powell Counties in Kentucky, would permanently destroy vast areas of farming and historic value, and of scenic beauty, along the Kentucky River Valley, including the site of the original Fort Boonesboro, and would permanently and forever block and preclude through navigation of the Kentucky River, all of which would be to the detriment of the improvement and development of the Kentucky River Valley, and contrary to the best interests of the Commonwealth of Kentucky;

NOW, THEREFORE,

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. That the Corps of Engineers, Army of the United States, be and hereby is urged to complete, at the earliest practicable date, its final recommendations with respect to the improvement and development of the Kentucky River Valley, with particular emphasis to be placed on whether the Federal Government intends to build the proposed Jessamine Creek Dam on the Kentucky River.

Section 2. That the construction of said Jessamine Creek Dam would be contrary to the best interests of the Commonwealth of Kentucky, and that a prompt decision is desired by the Commonwealth of Kentucky as to the final recommendations of the Corps of Engineers, for the improvement and development of the Kentucky River Valley in order that the State of Kentucky may proceed with its plans for the creation of a state park at Fort Boonesboro in Madison and Clark Counties, Kentucky.

Section 3. That the Clerk of the Senate cause copies of this resolution to be forwarded to the Commissioner of Conservation of Kentucky, the Chief Engineer, Corps of Engineers, Army of the United States, Washington, D. C., the District Engineer, Corps of Engineers, Army of the United States, Louisville, Kentucky, the Secretary of the Department of Interior, Washington, D. C., and to the Senators and Congressmen representing the Commonwealth of Kentucky in the Congress of the United States.

Senator Clay moved adoption of **SR 7.** Adopted by voice vote.

**SB 14,** by Senator Clay: AN ACT relating to establishment of Bryan's Station State Park.

**SB 15,** by Senator Freeman: AN ACT relating to public office and employment.

**SB 16,** by Senator Freeman: AN ACT relating to public employment and contracts.

Senator Bassett moved that the Senate adjourn until 8:00 p.m., Monday, January 13, 1958. Agreed.

## MONDAY, JANUARY 13, 1958

## SIXTH LEGISLATIVE DAY

The Senate was called to order by Lieutenant Governor Waterfield.

Prayer by the Reverend Father O'Dwyer of the Catholic Church of Frankfort.

The roll was called. All members were present except Senator Miller, who was granted leave of absence on motion of Senator Bassett.

The reading of the Journal for Wednesday, January 8, 1958, dispensed with and the same approved on motion of Senator Greene.

### Introductions

**SR 8,** by Senator Duffy: A JOINT RESOLUTION authorizing civil action against the Metropolitan Sewer District of Jefferson County, Kentucky, and/or against the Commonwealth of Kentucky, Department of Highways, in the interest of Norman Thomas Gnau and his insurers, Pennsylvania Fire Insurance Company and Ohio Casualty Insurance Company.

**SR 9,** by Senator Bassett: A JOINT RESOLUTION authorizing and directing a continuing study and evaluation of the common school system of the Commonwealth.

**SB 17,** by Senator Ware: AN ACT relating to war memorials, amending KRS 105.010.

**SB 18,** by Senator Anggelis: AN ACT relating to Planning and Zoning.

**SB 19,** by Senators Richmond and Van Hoose: AN ACT relating to police departments in second class cities, amending KRS 95.495.

**SB 20,** by Senator Freeman: AN ACT relating to minors and alcoholic beverages therefore, and providing a penalty for misrepresenting age.

**SB 21,** by Senators Clay and Kidwell: AN ACT relating to unfair competition and unfair trade practices in the sale of cigarettes; repealing sections 365.260 to 365.380 of the Kentucky Revised Statutes.

**SB 22,** by Senators Howard, Jackson, Duncan, and Hickerson: AN ACT relating to primary elections.

**SB 23,** by Senator Howard: AN ACT relating to grand jurors and petit jurors.

**SB 24,** by Senator McCann: AN ACT proposing an amendment to Section 42 of the Constitution of Kentucky, relating to the General Assembly.

## Committee Appointments

The President announced the following appointments to Committees of the Senate:

## Senate Committees

## 1958

### Agriculture and State Fair

Cassius M. Clay, Chairman
Ulysses G. Byers, Vice-Chairman

Stanley Blake
J. Murray Blue
Wayne Freeman
Alvin Kidwell
Strother Melton
E. W. Richmond
Ed Warinner

### Appropriations

Stanley Blake, Chairman
Ed Warinner, Vice-Chairman

Frank Bassett
Cassius M. Clay
Charles Davis
Clyde Howard
Jerry Howell
Paul Jackson
Wendell Van Hoose

### Banking and Insurance

Lloyd Greene, Chairman
Gates Young, Vice-Chairman

Charles Davis
Ed Kelly
Denver Knuckles
Strother Melton
George Ed Overbey
Wendell Van Hoose
James Ware

### Claims

Bernard J. Bonn, Chairman
Fred Lucas, Vice-Chairman

Cabell Francis
Cassius M. Clay
C. W. A. McCann
Louis Reuscher
Wendell Van Hoose
Ed Warinner
John W. Willis

### Conservation

Clyde Howard, Chairman
J. Murray Blue, Vice-Chairman

Cassius M. Clay
James Hamilton
Broadus Hickerson
Denver Knuckles
Fred Lucas
C. W. A. McCann
John Willis

### Education

E. W.Richmond, Chairman
Denver Knuckles, Vice-Chairman

Bernard Bonn
Lloyd Greene
Broadus Hickerson
Clyde Howard
Jerry Howell
Strother Melton
Ed Warinner

### Enrollment

John Anggelis, Chairman
A. E. Cornett, Vice-Chairman

J. Murray Blue
Ulysses G. Byers
Mrs. J. Harry Davis
Martin Duffy, Jr.
O. O. Duncan
Wayne Freeman
Broadus Hickerson

### Executive & Legislative Affairs

Jerry Howell, Chairman
O. O. Duncan, Vice-Chairman

Frank Bassett
Lloyd Greene
James Hamilton
Paul Jackson
Dr. J. E. Johnson
Ed Kelly
Wendell Van Hoose

### Health and Welfare

Dr. J. E. Johnson, Chairman
Mrs. J. Harry Davis, Vice-Chairman

Wayne Freeman
Lloyd Greene
Alvin Kidwell
C. W. Robinson
Ed Warinner
John Willis
Gates Young

### Judiciary

George Ed Overbey, Chairman
Cabell Francis, Vice-Chairman

A. E. Cornett
Martin Duffy
M. B. Fields
Clyde Howard
Scott Miller, Jr.
James Ware
Gates Young

### Labor and Industry

M. B. Fields, Chairman
Scott Miller, Jr., Vice-Chairman

John Anggelis
Ulysses G. Byers
A. E. Cornett
Charles Davis
Cabell Francis
E. W. Richmond
C. W. Robinson

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### Military Affairs & Civil Defense

Alvin Kidwell, Chairman
C. W. A. McCann, Vice-Chairman

John Anggelis
Cassius M. Clay
M. B. Fields
Cabell Francis
James Hamilton
Broadus Hickerson
Paul Jackson
Dr. J. E. Johnson
Ed Kelly
Denver Knuckles
Fred Lucas
George Ed Overbey
Louis Reuscher
John Willis

### Municipalities

Martin Duffy, Chairman
Strother Melton, Vice-Chairman

John Anggelis
Bernard J. Bonn
Fred Lucas
Scott Miller, Jr.
C. W. A. McCann
Louis Reuscher
James Ware

### Public Utilities

Ed Kelly, Chairman
Wayne Freeman, Vice-Chairman

Frank Bassett
Bernard J. Bonn
Cassius M. Clay
A. E. Cornett
M. B. Fields
Fred Lucas
E. W. Richmond

### Revenue and Taxation

Paul Jackson, Chairman
James Ware, Vice-Chairman

Frank Bassett
Stanley Blake
Ulysses G. Byers
Martin J. Duffy
Dr. J. E. Johnson
Ed Kelly
Wendell Van Hoose

### State and County Government

Charles Davis, Chairman
John Willis, Vice-Chairman

John Anggelis
O. O. Duncan
Alvin Kidwell
Denver Knuckles
C. W. A. McCann
Louis Reuscher
Gates Young

### Suffrage, Elections & Constitutional Amendments

C. W. Robinson, Chairman
Wendell Van Hoose, Vice-Chairman

Cassius M. Clay
Mrs. J. Harry Davis
Cabell Francis
James Hamilton
Jerry Howell
Dr. J. E. Johnson
George Ed Overbey

### Transportation and Highways

James Hamilton, Chairman
Broadus Hickerson, Vice-Chairman

Frank Bassett
J. Murray Blue
O. O. Duncan
Jerry Howell
Paul Jackson
Alvin Kidwell
Scott Miller, Jr.

### Ways and Means

Frank Bassett, Chairman
Louis Reuscher, Vice-Chairman

Stanley Blake
Mrs. J. Harry Davis
M. B. Fields
Jerry Howell
George Ed Overbey
C. W. Robinson
Ed Warinner

### Reference of Bills

The President announced referral of the following bills and resolutions:

Suffrage, Elections and Constitutional Amendments: **SB 1, SB 2, SB 3, SB 4, SB 6.**

Revenue and Taxation: **SB 5, SB 7, SB 9, SB 10.**

Ways and Means: **SB 8, SB 11.**

Executive and Legislative Affairs: **SB 12, SB 13, SB 14, SB 15, SB 16, SR 5.**

Senator Bassett moved adjournment to 1:00 p.m., Tuesday, January 14, 1958. Agreed.

## TUESDAY, JANUARY 14, 1958

## SEVENTH LEGISLATIVE DAY

The Senate was called to order by Lieutenant Governor Waterfield.

Prayer by the Reverend Father O'Dwyer of the Catholic Church of Frankfort.

The roll was called. All members present, except Senator Ware, who was granted leave of absence on motion of Senator Bassett.

The reading of the Journal for Monday, January 13, 1958, dispensed with and the same approved on motion of Senator Bassett.

### Communications

Letters from Governor A. B. Chandler relating to the appointments of Dr. William Fuller, Dr. Thomas P. Leonard, and Dr. R. W. Robertson to the State Board of Health, read by the Clerk.

January 14, 1958

Honorable Harry Lee Waterfield
Lieutenant Governor
Frankfort, Kentucky

Dear Governor Waterfield:

This is your notification that I have this day re-appointed as a member of the State Board of Health Dr. William H. Fuller, Mayfield, Kentucky.

Inasmuch as KRS 211.040 provides that appointments by the Governor to the State Board of Health shall be made with the advice and consent of the Senate, I request that you submit the name of Dr. Fuller to the Senate and request that the concurrence of that body in the appointment which I have made. I would be grateful to you and the members of the Senate if you would act speedily on this request in order that the vacancy which now exists on the Board of Health may be filled at once.

Sincerely,
ALBERT B. CHANDLER
Governor

January 14, 1958

Honorable Harry Lee Waterfield
Lieutenant Governor
Frankfort, Kentucky

Dear Governor Waterfield:

This is your notification that on January 3, 1957, I re-appointed Dr. Thomas P. Leonard, Frankfort, to be a member of the State Board of Health.

Inasmuch as KRS 211.040 provides that appointments by the Governor to the State Board of Health shall be made with the advice and consent of the Senate, I request that you submit the name of Dr. Leonard to the Senate and request the concurrence of that body in the appointment which I have made.

Sincerely,
ALBERT B. CHANDLER
Governor

January 14, 1958

Honorable Harry Lee Waterfield
Lieutenant Governor
Frankfort, Kentucky

Dear Governor Waterfield:

This is your notification that on January 3, 1957, I re-appointed Dr. R. W. Robertson, Paducah, to be a member of the State Board of Health.

Inasmuch as KRS 211.040 provides that appointments by the Governor to the State Board of Health shall be made with the advice and consent of the Senate, I request that you submit the name of Dr. Robertson to the Senate and request the concurrence of that body in the appointment which I have made.

Sincerely,
ALBERT B. CHANDLER
Governor

Senator Bassett moved to concur in the appointment of Dr. William H Fuller. Agreed.

Senator Hamilton moved to concur in the appointment of Dr. Thomas P. Leonard. Agreed.

Senator Melton moved to concur in the appointment of Dr. R. W. Robertson. Agreed.

### Introductions

**SR 10**, by Senators Clay and C. H. Davis: A CONCURRENT RESOLUTION requesting and petitioning the President of the United States to review the Nickerson case.

WHEREAS, Colonel John C. Nickerson of the Army of the United States was given a court-martial sentence suspending him from the privileges of his rank for a year and requiring him to forfeit $1500 in pay, for circulating copies of a confidential memorandum which he had prepared, objecting to restrictions on Army missiles development;

WHEREAS, subsequent to this court-martial the successful launching by the Union of Soviet Socialist Republics of two earth satellites has brought public admissions from highly-placed officials that the United States has at the present time fallen behind Russia in certain phases of its defense program;

WHEREAS, regardless of the propriety of the sentence for a technical violation of Department of Defense regulations, these and other developments should be given consideration in what has come to be known as the Nickerson case; and

WHEREAS, Colonel John C. Nickerson is possessed of abilities and experience in the missiles development field, which need to be utilized in the present emergency and of which the United States is being deprived by the court-martial sentence in question and his assignment to obscure duties in Panama;

NOW, THEREFORE,

*Be it resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

That the President of the United States be and he hereby is requested and petitioned to review the court-martial sentence given Colonel John C. Nickerson to set aside his suspension from rank and forfeiture of pay and to utilize his abilities and experience in the missiles development program of the Department of Defense.

Senator Warinner moved that action on **SR 10** be postponed until Wednesday, January 15, 1958. Motion lost on division vote of 11 to 21.

### Recess

Senator Warinner moved that the Senate do now recess for fifteen minutes. Agreed. At the appointed hour, the President of the Senate called the Senate to order.

Senator C. H. Davis moved the adoption of **SR 10.** Agreed.

On roll call, the vote was: Yeas 25—Anggelis, Bassett, Blake, Blue, Bonn, Clay, C. H. Davis, Duffy, Fields, Francis, Freeman, Hamilton, Hickerson, Howard, Jackson, Johnson, Kidwell, McCann, Melton, Overbey, Reuscher, Richmond, Robinson, Willis, and Young; Nays 12—Byers, Cornett, Mrs. J. H. Davis, Duncan, Greene, Howell, Kelly, Knuckles, Lucas, Miller, Van Hoose, and Warinner. Adopted.

### Introductions

**SR 11,** by Senator Warinner: A JOINT RESOLUTION directing the Legislative Research Commission to study education methods relative to exceptional children and the field of science.

**SR 12,** by Senator Warinner: A CONCURRENT RESOLUTION directing the Legislative Research Commission to employ a full-time chaplain for each house of the General Assembly. The President ruled **SR 12** out of order as the subject matter was acted upon under **SR 1,** Tuesday, January 7, 1958.

**SB 25,** by Senator Van Hoose: AN ACT relating to grand jurors and petit jurors.

**SB 26,** by Senator Van Hoose: AN ACT relating to holidays.

**SB 27,** by Senator Howard: AN ACT relating to the conduct of regular elections.

**SB 28,** by Senator Reuscher: AN ACT relating to traffic regulations, amending KRS 189.140.

**SB 29,** by Senator Warinner: AN ACT relating to highway improvement.

**SB 30,** by Senator Warinner: AN ACT relating to a Veteran's Bonus and providing a sales tax on alcoholic beverages for payment thereof.

**SB 31,** by Senator Clay: AN ACT relating to registration of voters.

**SB 32,** by Senator Clay: AN ACT relating to the expenses of election, and amending Section 118.450 of the Kentucky Revised Statutes.

**SB 33,** by Senators Jackson and Howard: AN ACT proposing an amendment to Section 99 of the Constitution of Kentucky relative to sheriffs.

**SB 34,** by Senator Freeman: AN ACT relating to public officers and employees connected with the construction and maintenance of public roads and highways.

**SB 35,** by Senator Willis: AN ACT relating to absent voting.

### Reference of Bills

The President announced referral of the following bills and resolutions:

State and County Government: **SB 17.**
Municipalities: **SB 18, SB 19.**
Executive and Legislative Affairs: **SB 20, SR 9.**
Ways and Means: **SB 21.**
Suffrage, Elections, and Constitutional Amendments: **SB 22, SB 24.**
Judiciary: **SB 23.**
Claims: **SR 8.**

Senator Bassett moved adjournment to 1:00 p.m., Wednesday, January 15, 1958. Agreed.

## WEDNESDAY, JANUARY 15, 1958

## EIGHTH LEGISLATIVE DAY

The Senate was called to order by Lieutenant Governor Waterfield.

Prayer by the Reverend Father O'Dwyer of the Catholic Church of Frankfort.

The roll was called. All members were present except Senators Overbey, and Mrs. J. Harry Davis, who were granted leave of absence on motion of Sentor McCann.

The reading of the Journal for Tuesday, January 14, 1958, dispensed with and the same approved on motion of Senator McCann.

Senator McCann rose to a Point of Order asking why decals had been furnished members for their cars in place of the metal plates authorized by a bill passed in the 1956 session.

The President explained he had no knowledge of that particular bill, but he would investigate the matter.

### Motions

Senator Bassett moved that Honorary Page Certificates be limited to thirty-five for each Senator. Senator Bassett then requested his motion be withdrawn. The President ruled without objection it would be so ordered.

Senator Anggelis moved, seconded by Senator Young, that all Honorary Page Certificates would be approved in open session of the Senate. Agreed by voice vote.

Senator Kelly moved that Lake Dudley Kelly II be made an Honorary Page of the Senate. Agreed.

### Introductions

**SR 13**, by Senator Warinner: A JOINT RESOLUTION authorizing and directing the Legislative Research Commission to make a study of the advisability of including kindergarten age children as a component of the public school system.

**SR 14**, by Senator Warinner: A JOINT RESOLUTION directing the Legislative Research Commission to study the fee system of compensation for official duties.

**SR 15**, by Senator Warinner: A JOINT RESOLUTION directing the Legislative Research Commission to study the curricula of the public schools and institutions of higher learning of the Commonwealth relative to science studies.

**SR 16,** by Senators Fields, Kelly, Clay, and C. H. Davis: A CONCURRENT RESOLUTION directing the Department of Highways to seek Federal designation for Kentucky Highway Number 15 as a Federal Highway.

WHEREAS, Kentucky Highway Number 15 connects United States Highway Numbers 60 and 227 at Winchester, Kentucky, with United States Highway Number 119 near Whitesburg, Kentucky, a total distance of approximately 160 miles;

WHEREAS, due to increased tourism, both by Kentuckians and out-of-state visitors, in and around the Cumberland National Forest, Natural Bridge State Park, and other scenic attractions, Kentucky Highway Number 15 has become one of the most frequently traveled highways in Eastern Kentucky; and

WHEREAS, it is vital to our national defense that Kentucky Highway Number 15 be made an integral part of the United States system of roads.

NOW, THEREFORE,

*Be it resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. That the Department of Highways of the Commonwealth of Kentucky is directed to take the proper steps to obtain the changing of Kentucky Highway Number 15 to a United States Highway, both as to number and classification to qualify for Federal funds.

Section 2. That the Clerk of the Senate is directed to forward authenticated copies of this resolution to the Commissioner of Highways of the Commonwealth of Kentucky, to the United States Bureau of Public Roads and to the United States Route Numbering Committee of the American Association of State Highway Officials.

Senator Fields moved the adoption of **SR 16.** Agreed.

**SB 36,** by Senator Warinner: AN ACT relating to construction and maintenance of streets, making appropriation therefor.

**SB 37,** by Senator Anggelis: AN ACT enabling the State Tuberculosis Hospital Commission, on behalf of the Commonwealth of Kentucky, to acquire the title and to assume the operation and maintenance of Tuberculosis Sanatoria from Tuberculosis Sanatorium Districts.

**SB 38,** by Senator Clay: AN ACT proposing to amend the Constitution of Kentucky relating to the taxation of property, involving sections 171 and 172 thereof.

**SB 39,** by Senator Clay: AN ACT proposing an amendment to Section 98 of the Constitution of Kentucky relative to the compensation of prosecuting attorneys.

**SB 40**, by Senator Howard: AN ACT relating to education, providing for a college in Hardin County.

**SB 41**, by Senator Howard: AN ACT relating to juvenile court.

### Reference of Bills

The President announced referral of the following bills and resolutions:

Judiciary: **SB 25.**

Ways and Means: **SB 26.**

Suffrage, Elections and Constitutional Amendments: **SB 27, SB 31, SB 32, SB 33, SB 35.**

Transportation and Highways: **SB 28, SB 29.**

Revenue and Taxation: **SB 30.**

Executive and Legislative Affairs: **SB 34, SR 11.**

Senator Bassett moved adjournment until 12:00, Noon, Thursday, January 16, 1958. Agreed.

## THURSDAY, JANUARY 16, 1958

## NINTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Father O'Dwyer of the Catholic Church of Frankfort.

The roll was called. All members present except Senators Blake, Mrs. J. Harry Davis, Miller, and Overbey, who were granted leave of absence on motion of Senator McCann.

The reading of the Journal for Wednesday, January 15, 1958, dispensed with and the same approved on motion of Senator McCann.

### Introductions

**SR 17**, by Senator McCann: A RESOLUTION petitioning the Governor of the Commonwealth of Kentucky to retain the principal offices of the State Department of Health in Louisville, Jefferson County, Kentucky.

### House Message

Announcing passage of **SR 10, SR 7, HR 4, HR 12.** Ordered that said bills be referred.

### Introductions

Senator Greene moved **SR 17** be tabled. Motion lost on division vote of 10 to 13.

Senator Greene moved, seconded by Senator McCann, that **SR 17** be laid on Clerk's desk. Agreed.

Senator Kidwell moved adoption of **HR 4.**

**HR 4:** A CONCURRENT RESOLUTION to establish a memorial to James W. Cammack, Sr.

WHEREAS, the Honorable James W. Cammack, Sr., was a resident of Owenton, Owen County, Kentucky, for many years prior to his death on February 5, 1939;

WHEREAS, the active participation of James W. Cammack, Sr., in church, school, fraternal and political organizations made him respected and loved by all who knew him;

WHEREAS, through public service in city, county and state, and particularly while serving as Attorney General of the Commonwealth of Kentucky, James W. Cammack, Sr., became a leader in promoting and shaping governmental policies and developments in the Commonwealth; and

WHEREAS, it is the desire of the many friends and associates of the late James W. Cammack, Sr., that a fitting memorial be established to honor his memory and as a token of the high esteem in which he was held.

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That Kentucky Highway Number 22, from the Henry County line at Gratz, Kentucky, to the west city limits of Owenton, Kentucky, is designated as the James W. Cammack Memorial Highway.

Section 2. That the Department of Highways of the Commonwealth of Kentucky is directed to place appropriate markers at both ends and at reasonable intervals along the designated portion of Kentucky Highway Number 22.

Section 3. That the Clerk of the House of Representatives is directed to forward copies of this resolution to the Department of Highways and to the family of the man so honored.

Agreed.

Senator Bassett moved adoption of **HR 12.**

**HR 12:** A CONCURRENT RESOLUTION relating to adjournment of the General Assembly.

*Be it resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That when the House of Representatives and the Senate adjourn on Thursday, January 16, 1958 they adjourn to Tuesday, January 21, 1958, 8 p.m. and that said adjournment be in the memory of General Robert E. Lee.

Section 2. This adjournment recognizes that Monday, January 20, 1958 is not a legislative day within the meaning of Section 42 of the Constitution. KRS 2.110 specifies that January 19, 1958, Robert E. Lee Day, is a legal holiday. KRS 2.110 further specifies that if any legal holiday occurs on Sunday the next day thereafter shall be observed as a holiday. Section 42 of the Constitution excludes Sunday and legal holidays in the count of sixty legislative days.

**IN SENATE**

**JANUARY 16, 1958**

Amending House Resolution No. 12 by adding the following:

That the House and Senate adjourn in observance also of the birthday of Lieutenant Governor Harry Lee Waterfield.

ATTEST: Mary Purdy
Asst. Clerk

Senator Young offered an amendment to **HR 12** to include celebration of Lieutenant Governor Harry Lee Waterfield's birthday. Senator Bassett moved the adoption of **HR 12** as amended

Agreed by voice vote.

**SR 18,** by Senator Kidwell: A RESOLUTION directing each executive and administrative department and agency of the state government to submit to the Senate a detailed report concerning its personnel.

WHEREAS, the needs and services of the government of this Commonwealth have increased during recent times, and

WHEREAS, reports have reached this body that the number of employees now in state service has vastly increased during the present biennium, the compensation of persons holding the positions in existence December 1, 1955 in many cases has been greatly increased, and

WHEREAS, a proper consideration of the requests of the Evecutive Department requires that the Senate inform itself of the nature and extent of this increase in compensation and in the number of persons on the public payroll, and the necessity therefor, in order to give proper consideration to bills now pending.

NOW, THEREFORE,

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the chief officer of each executive and administrative department or agency of the government of this Commonwealth shall transmit immediately to the Clerk of the Senate for the use of the employees the following information:

(1) A list of all new positions created in the department or agency under his or her control since December 1, 1955, together with the names of the present incumbents, their home address, their duties and their compensation.

(2) A separate compilation of the names of all persons in professional, investigative or clerical positions who are not assigned to full-time duty, or who do not have assigned to them a specific desk in a government owned or leased office building.

(3) A list of the names of all persons now employed, together with their address, duties and compensation, filling positions that existed in his or her agency or department prior to December 1, 1955.

Section 2. That the Clerk of the Senate immediately after adjournment of the Senate today transmit a copy of this resolution to the chief officer of each department or agency, directing each to comply with the request as quickly as possible.

Senator Kidwell moved adoption of **SR 18.** Agreed by voice vote.

**SB 42,** by Senators Ware and Kelly: AN ACT relating to tobacco research.

**SB 43,** by Senator Melton: AN ACT relating to gas distribution systems.

### Reference of Bills

The President announced referral of the following bills and resolutions:

Transportation and Highways: **SB 36.**

Ways and Means: **SB 37.**

Suffrage, Elections and Constitutional Amendments: **SB 38, SB 39.**

Executive and Legislative Affairs: **SB 40, SR 14, SR 15.**

Judiciary: **SB 41.**

Education: **SR 13.**

Senator Bassett moved adjournment until 8:00 p.m., Tuesday, January 21, 1958. Agreed.

## TUESDAY, JANUARY 21, 1958

## TWELFTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Samuel Blackard, of the Episcopal Church of Frankfort.

The roll was called. All members present, except Senator Cornett, who was granted leave of absence on motion of Senator Bassett.

The reading of the Journal for Thursday, January 16, 1958, dispensed with and the same approved on motion of Senator McCann.

### House Message

Announcing passage of **SR 16, HB 1, HB 2.** Ordered that **HB 1** and **HB 2** be referred.

### Communications

Letter from Governor A. B. Chandler relating to the appointment of Dr. Carl J. Johnson to the State Board of Health, read by the Clerk.

January 17, 1958

Honorable Harry Lee Waterfield
Lieutenant Governor
Frankfort, Kentucky

Dear Governor Waterfield:

This is your notification that I have this day re-appointed as a member of the State Board of Health Dr. Carl J. Johnson, Louisville, Kentucky.

Inasmuch as KRS 211.040 provides that appointments by the Governor to the State Board of Health shall be made with the advice and consent of the Senate, I request that you submit the name of Dr. Johnson to the Senate and request the concurrence of that body in the appointment which I have made. I would be grateful to you and the members of the Senate if you would act speedily on this request in order that the vacancy which now exists on the Board of Health may be filled at once.

Sincerely,
ALBERT B. CHANDLER
Governor

Senator Duffy moved to concur in the appointment of Dr. Carl J. Johnson. Agreed.

### Motions

Senator Anggelis moved that Miss Kentucky be invited to visit the Senate at a future date. Agreed by voice vote.

## Introductions

**SR 19**, by Senator Howard: A CONCURRENT RESOLUTION memorializing Congress to return to the Commonwealth of Kentucky certain moneys.

WHEREAS, the Congress of the United States has imposed a tax upon distilled spirits under the Internal Revenue Code, U.S.C.A. title 26, Chapter 51, U.S.C., Section 5001, as follows:

"There is hereby imposed on all distilled spirits in bond or produced in or imported into the United States an Internal Revenue tax at the rate of $10.50 on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon. On and after July 1, 1958, the rate of tax imposed by this paragraph shall be $9 in lieu of $10.50";

WHEREAS, the Congress assembled may or can re-impose this tax of $10.50 at its present session, to be effective after July 1, 1958;

WHEREAS, the additional $1.50 tax involved is greater in amonut than the Kentucky income tax, the corporation income tax, and many other state taxes; and

WHEREAS, the Commonwealth of Kentucky produces the greatest amount of taxable bonded whiskey of any state;

NOW, THEREFORE,

*Be it Resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

That the Congress of the United States be memorialized and requested that if or when the additional tax of $1.50 herein referred be imposed, the total increase thereof be refunded to the Commonwealth of Kentucky for the use and benefit of the General Fund and that a copy hereof be sent to each member of Congress from Kentucky.

Senator Howard moved adoption of **SR 19.** Adopted by voice vote.

**SR 20**, by Senator Bonn: A JOINT RESOLUTION authorizing Helen Klinglesmith, a female white person over the age of twenty-one to sue the Commonwealth of Kentucky and the State Department of Highways, or either of them.

**SB 44**, by Senator Field: AN ACT relating to the operation of railroads.

**SB 45**, by Senator Clay: AN ACT relating to voting machines; providing a method of procurement thereof and payment therefor.

**SB 46**, by Senator Anggelis: AN ACT relating to compensation of guards for safekeeping of prisoners.

**SB 47**, by Senator Anggelis: AN ACT requiring open of public meetings of all public commissions, boards and councils, and the other agencies and departments in this state.

**SB 48**, by Senator Anggelis: AN ACT relating to permanent standing committees in the Senate and/or the House of Representatives.

**SB 49**, by Senator Anggelis: AN ACT relating to physical therapy and the practice thereof, including establishment of a Physical Therapy Board, collection of fees, and the issuance, suspension and revocation of licenses, and prescribing penalties for unlicensed practice of physical therapy and other violations of this Act.

**SB 50**, by Senator Knuckles: AN ACT relating to insurance policies.

**SB 51**, by Senator Knuckles: AN ACT relating to attorneys at law.

**SB 52**, by Senators Melton, Freeman, and Overbey: AN ACT relating to education and amending KRS 157.380.

**SB 53**, by Senator Freeman: AN ACT proposing an amendment to Section 100 of the Constitution of Kentucky relating to the qualifications of officers for counties and districts.

**SB 54**, by Senators Jackson and Bassett: AN ACT relating to trial commissioners appointed by county judges.

**SB 55**, by Senator McCann: AN ACT relating to the conduct and records of governmental meetings.

Senator Bassett moved adjournment until 1:00 p.m., Wednesday, January 22, 1958. Agreed.

## WEDNESDAY, JANUARY 22, 1958

## THIRTEENTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Samuel Blackard of the Episcopal Church of Frankfort.

The roll was called. All members present, except Senator Duffy, who was granted leave of absence on motion of Senator McCann.

The reading of the Journal for Tuesday, January 21, 1958, dispensed with and same approved on motion of Senator McCann.

### Motions

Senator Young moved that Pam Tanner be made an Honorary Page of the Senate. Agreed.

Senator Van Hoose moved that Christine Hill Pennington be made an Honorary Page of the Senate. Agreed.

Senator Willis moved that Patricia Rae Chandler, Allen Chadwick Long, and Allen Dawson Turner be made Honorary Pages of the Senate. Agreed.

### Communications

The President reported an invitation to all members from Mr. C. K. Rieger, Vice President of the General Electric Company in Louisville, to attend a luncheon and a tour of the manufacturing facilities on Wednesday, February 5. Senator Bassett moved to accept the invitation of Mr. C. K. Rieger. Agreed.

### Introductions

**SR 21**, by Senator Warinner: A CONCURRENT RESOLUTION requesting and memorializing the Congress of the United States to amend the public assistance laws.

WHEREAS, there appears to be some degree of ambiguity in the present federal public assistance laws as to the combination and use of the words "permanent" and "total" in relation to disability; and

WHEREAS, the dictionary definition as well as the accepted usage shows the two words to differ in general usage and classification;

NOW, THEREFORE,

*Be it resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

That the Congress of the United States be and hereby is memorialized and requested to change the phrase "permanent and total" so that it will read "permanent or total" where it appears in the public assistance laws.

Senator Warinner moved adoption of **SR 21.** Agreed by voice vote.

**SR 22,** by Senator Warinner: A JOINT RESOLUTION directing the Legislative Research Commission to study the advisability of furnishing medical care to indigent and mentally retarded children at public expense.

**SR 23,** by Senators Clay, Anggelis, Duffy, Bonn, Young, McCann, Ware, Reuscher, and Kelly: A CONCURRENT RESOLUTION memorializing Congress not to enact the Harris-O'Hara Bill, which would remove controls of natural gas at the wellhead, or any similar measures seeking the same or like objectives.

Senator Clay moved adoption of **SR 23.** Senator Van Hoose moved to postpone action on **SR 23** until Wednesday, January 23, 1958, and said resolution to be laid on Clerk's desk. Agreed.

**SB 56,** by Senator Warinner: AN ACT relating to marriage licenses.

**SB 57,** by Senator Warinner: AN ACT relating to teachers' retirement for disability.

**SB 58,** by Senator Warinner: AN ACT relating to motor vehicle registration plates.

**SB 59,** by Senator Overbey: AN ACT relating to motor vehicle equipment.

**SB 60,** by Senator Overbey: AN ACT relating to banking days.

**SB 61,** by Senator Howard: AN ACT relating to neglect of children, and providing a penalty therefor.

**SB 62,** by Senator Overbey: AN ACT relating to motor vehicle equipment.

**SB 63,** by Senator Overbey: AN ACT relating to motor vehicle equipment.

**SB 64,** by Senator Overbey: AN ACT relating to liability for aircraft operation.

**SB 65,** by Senator Hamilton: AN ACT relating to transactions between florists and funeral directors.

**SB 66,** by Senator Richmond: AN ACT relating to police departments in fourth-class cities.

**SB 67,** by Senator Willis: AN ACT relating to fire insurance contracts.

### Reference of Bills

The President announced referral of the following bills:
Agriculture: **SB 42.**
State and County Government: **SB 43.**
Appropriations: **HB 1.**
Revenue and Taxation: **HB 2.**

Senator Bassett moved adjournment until 1:00 p.m., Thursday, January 23, 1958. Agreed.

## THURSDAY, JANUARY 23, 1958

## FOURTEENTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Samuel Blackard of the Episcopal Church of Frankfort.

The roll was called. All Senators present.

The reading of the Journal for Wednesday, January 22, 1958, dispensed with and the same approved on motion of Senator Duffy.

### Motions

Senator Richmond moved that Richard Ford and Eldred Ford be made Honorary Pages of the Senate. Agreed.

Senator Fields moved that William Herndon Jones and Edith Louise Hoskins be made Honorary Pages of the Senate. Agreed.

### Communications

Letter from Dr. James Martin, Commissioner of Highways, relating to **SR 18.**

January 23, 1958

The Honorable Harry L. Waterfield,
Lieutenant Governor
New Capitol Building
Frankfort, Kentucky

Dear Lt. Gov. Waterfield:

I have received a copy of a Resolution from the Senate asking each Agency of the Commonwealth to furnish that body with certain personnel information.

In checking with the Division of Personnel and the I. B. M. Section, I find that they can obtain from our records the basic information desired. However, I feel I must inform you what this task will consist of as it pertains to work, hours, machine time and operators.

The basic operation would consist of sorting 133,000 cards, collating 14,000 cards and tabulating (listing) 35,000 cards. As I said, this is the basic operation, so in order to get the information desired in the Resolution this operation would have to be done two and two-thirds times. The I. B. M. Section estimates that by utilizing all of their equipment and necessary operators it would take them about 3½ working days. Of course this would necessitate halting, almost completely, our present machine operations. Included in these various operations is our payroll program which has just recently been transferred to mechanical methods. I'm sure you will agree that one of our first obligations is to see that our employees receive their wages on time. An operation such as outlined above, would seriously impair and definitely delay our payrolls. The I. B. M. Section is already working overtime to meet our normal demands. It would be hard to estimate just how far behind this job would throw us, but I'm prepared to say that we would be quite awhile recovering.

If you need any other information about this matter, please let me know.

Very sincerely,
JAMES W. MARTIN
Commissioner of Highways

Senator Young moved that the President appoint a committee of three to discuss said communication with Dr. Martin.

Agreed.

The President appointed Senators Kidwell, Chairman, Clay and Young to this committee.

### Introductions

**SB 68**, by Senator Richmond: AN ACT relating to police departments in third class cities.

**SB 69**, by Senator Richmond: AN ACT relating to political contributions.

**SB 70**, by Senator Richmond: AN ACT relating to the purchase and delivery of oil and gas from wells.

**SB 71**, by Senator Richmond: AN ACT relating to registration of motor vehicles.

**SB 72**, by Senator Van Hoose: AN ACT relating to tobacco warehouses.

**SB 73**, by Senator Kelly: AN ACT relating to school employees.

**SB 74**, by Senator Howard: AN ACT relating to lie-detectors.

**SB 75**, by Senator Howard: AN ACT relating to the terms of court for the forty-sixth judicial district.

**SB 76**, by Senator Knuckles: AN ACT relating to sick leave for teachers.

### Motions

Senator Overbey moved that when the Senate should adjourn today, it adjourn to meet again Friday, January 24, 1958, at 10:00 a.m. Motion lost on voice vote.

### Reference of Bills

The President announced referral of the following bills and resolutions:

Ways and Means: **SB 44, SB 64, SB 65, SB 66.**

Suffrage, Elections and Constitutional Amendments: **SB 45, SB 53.**

State and County Government: **SB 46.**

Executive and Legislative Affairs: **SB 47, SB 48, SB 54, SB 55.**

Health and Welfare: **SB 49, SB 56, SB 61, SR 22.**

Banking and Insurance: **SB 50, SB 60, SB 67.**

Judiciary: **SB 51.**

Appropriations: **SB 52.**

Education: **SB 57.**

Transportation and Highways: **SB 58, SB 59, SB 62, SB 63.**

Claims: **SR 20.**

Senator Bassett moved adjournment until 8:00 p.m., Monday, January 27, 1958. Agreed.

## MONDAY, JANUARY 27, 1958

## SEVENTEENTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Carter Roberts, of the Church of the Nazarene, Frankfort.

The roll was called. All members present except Senators Kidwell, Lucas, and Overbey, who were granted leave of absence on motion of Senator McCann.

The reading of the Journal for Thursday, January 23, 1958, dispensed with and the same approved on motion of Senator McCann.

### Motions

Senator Hamilton moved that Annette Jean Hoge be made an Honorary Page of the Senate. Agreed.

### Introductions

**SR 24,** by Senator Warinner: A SENATE RESOLUTION memoralizing the Congress of the United States to enact legislation placing the marketing of strawberries under a control system similar to that in effect for the marketing of tobacco.

Senator Warinner moved that **SR 24** be laid on the Clerk's Desk. Agreed.

**SR 25,** by Senators Melton, Freeman, and Willis: A CONCURRENT RESOLUTION commemorating the fine qualities of statesmanship, patriotism, and loyalty exemplified in the life of the late Alben William Barkley.

*Be it resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives concurring therein,* that these expressions of our thoughts and sentiments be made a permanent part of the legislative record of this session.

On Monday, April 30, 1956, in an hour of joy and zeal Alben Barkley passed out of the company of living men while speaking to a political convention of young Americans in Lexington, Virginia. Nothing pleased him more than to stand before his fellow men, to speak to them, to illustrate with his inimitable stories, to expound the gospel of the Democratic Party which he loved so well, and to proclaim the faith by which he lived.

Alben Barkley as a young man attended for a short period Thomas Jefferson's university, the University of Virginia. There he breathed deep the air of Jefferson's philosophy, found and nurtured his spiritual kinship with the immortal author of the Declaration of Independence, and was ever the disciple and prophet of Jeffersonian democracy. He recognized that great forces were loose in America and that great changes were taking place. He knew that when a nation grows rich and powerful it can become careless and forget its ideals.

Proud of the opportunities given to him to serve his country, he met them, he gloriously measured up to them—from log cabin, county attorney, county judge, Congressman, Senator to Vice President. Vice Presidents have come and gone, many of them, but we have had only one so outstanding in personality, in leadership and in service to our country, and so strong in the appreciation and affections of the American people as to become "Mr. Veep." Like that other immortal Kentuckian, Henry Clay, his name and fame outshone even many of those who have held the great office of President of the United States.

Alben Barkley labored and fought for the preservation and the perfecting of American democracy. He fought against special privilege, monopoly, the mastery of the many by the few. He fought to open wide the door of economic opportunity, to redress social wrongs, to correct political abuses. He was on the side of the underprivileged, the less fortunate, the little folks. He was the champion of the people and a mighty warrior for peace for ourselves and for all nations. In the closing words of his autobiography he declares:

"I should like to live to see every American family living in a comfortable home, and every American child born and reared in an atmosphere sufficiently wholesome to guarantee an even chance for health and intellectual and moral development consonant with the responsibilities of American citizenship. I should like to live to see the world at peace, where the inventive genius of man would be utilized to improve the conditions of life throughout the world. I should like to live to see the pledge of every nation respected by every other nation because it was made in good faith and observed to the letter."

It is ironic but no testimony from anyone on earth could more competently describe the life of Alben Barkley than the very last words which he, himself, uttered as he left us to join God:

"I would rather be a servant in the House of the Lord than to sit in the seats of the mighty."

Be it further resolved that a copy of this memorial resolution be sent to his family.

Senator Melton moved the adoption of **SR 25.** Adopted by voice vote.

SR 26, by Senator Young: A SENATE RESOLUTION requiring the Clerk of the Senate to report to the Senate the receipt by him of responses from Department and Agency chief officers to request made in Senate Resolution No. 18.

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:*

1. That the Chief Clerk of the Senate each day the Senate is in session, during the period of "Order of Business" designated as "MOTIONS, PETITIONS and COMMUNICATIONS" report to the Senate the names of the Department or agency from which he has received a reply to the request made by Senate Resolution No. 18.

2. That the Chief Clerk of the Senate immediately upon receipt of reply or replies have such replies copied by "Thermotex" or "mimeograph" method in sufficient numbers as is required for the records of the Senate, and five copies for each member of the Senate, such copies to be delivered to the members of the Senate as quickly as possible after receipt of same by the Chief Clerk's office.

Senator Young moved the adoption of **SR 26.** Adopted by voice vote.

**SR 27,** by Senator Fields: A CONCURRENT RESOLUTION to designate Kentucky Highway Number 15, as the Trail of the Lonesome Pine.

WHEREAS, a large portion of what is now Kentucky Highway Number 15 from Winchester to Whitesburg, Kentucky is over and along the original Trail of the Lonesome Pine;

WHEREAS, it is the desire of many of the residents of Eastern Kentucky, that some definite measure be taken to preserve the fame of the trail;

NOW, THEREFORE,

*Be it resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. That Kentucky Highway Number 15, from Winchester to Whitesburg, Kentucky, is designated as the "Trail of the Lonesome Pine."

Section 2. That the Department of Highways of the Commonwealth of Kentucky is directed to place appropriate markers at both ends of, and at reasonable intervals along, Kentucky Highway Number 15.

Section 3. That the Clerk of the Senate is directed to forward copies of this resolution to the Department of Highways of the Commonwealth of Kentucky.

Senator Fields moved the adoption of **SR 27.** Adopted by voice vote.

**SR 28,** by Senator Kelly: A CONCURRENT RESOLUTION memorializing and petitioning Congress to repeal certain "war-time" taxes.

WHEREAS, during World War II the Congress of the United States levied certain transportation excise taxes;

WHEREAS, these taxes were levied as war time emergency measures, and, as such, have outlived their justification; and

WHEREAS, there have been introduced in the Congress of the United States certain bills which would effect the repeal of these taxes which are discriminatory in nature and should no longer be continued in effect;

NOW, THEREFORE,

*Be it resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives therein concurring:*

That it is the sense of both bodies and of the members of the General Assembly of the State of Kentucky, that justice and fair play require the repeal of transportation excise taxes in the amounts of ten percent on passenger travel and three percent on freight levied during World War II.

That the General Assembly of Kentucky does hereby memorialize and petition and does respectfully urge the Congress of the United States to provide a measure of needed relief to the people of our nation by enacting the pending legislation to repeal these "war-time" excise taxes levied on transportation.

That the Secretary of the Senate transmit a duly authenticated copy of this resolution to the President of the United States Senate, to the Speaker of the United States House of Representatives and to each member of the Kentucky delegation in Congress.

Senator Kelly moved the adoption of **SR 28.** Adopted by voice vote.

**SR 29,** by Senator Fields: A CONCURRENT RESOLUTION requesting the Department of Conservation, Division of Parks, of the Commonwealth of Kentucky to establish and maintain Buckhorn Reservoir as a state park.

WHEREAS, Buckhorn Reservoir is located about one half mile from Buckhorn, Perry County, Kentucky; and

WHEREAS, the Government of the United States has constructed Buckhorn Reservoir as a permanent storage conservation pool, with an area, at full pool, of approximately 3,610 acres; and

WHEREAS, Buckhorn Reservoir, as a state fishing lake and recreation area, would be of great benefit to the locality as well as the State of Kentucky.

NOW, THEREFORE,

*Be it resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. That the Department of Conservation, Division of

Parks, of the Commonwealth of Kentucky is urged to establish and maintain Buckhorn Reservoir as a state park.

Section 2. That the Clerk of the Senate is directed to forward authenticated copies of this resolution to the Commissioner of the Department of Conservation, and the Director of the Division of State Parks.

Senator Fields moved the adoption of **SR 29.** Adopted by voice vote.

**SB 77,** by Senator Blake: AN ACT relating to motor vehicles.

**SB 78,** by Senator Freeman: AN ACT relating to the Legislative Research Commission.

**SB 79,** by Senator Knuckles: AN ACT relating to disability clauses in insurance policies.

**SB 80,** by Senator Mrs. J. Harry Davis: AN ACT relating to sewer line improvements in cities of second to sixth classes.

**SB 81,** by Senator Duffy: AN ACT relating to trailer parks.

**SB 82,** by Senator Warinner: AN ACT relating to construction and maintenance of streets, making appropriation therefor.

**SB 83,** by Senator Warinner: AN ACT making appropriations for rural highways.

**SB 84,** by Senator Anggelis: AN ACT relating to public records.

**SB 85,** by Senator Clay: AN ACT relating to the computation of time, amending KRS 446.030.

**SB 86,** by Senator Miller: AN ACT relating to Group Life Insurance for church congregations.

**SB 87,** by Senators Young and Ware: AN ACT relating to the Legislative Research Commission.

**SB 88,** by Senator Fields: AN ACT relating to appeals from the Board of Claims.

**SB 89,** by Senator Fields: AN ACT relating to insurance.

**SB 90,** by Senator Ware: AN ACT relating to motor vehicle operation.

**SB 91,** by Senators Young and Ware: AN ACT relating to the Treasurer.

### Recess

Senator Bassett moved that the Senate do now recess for fifteen minutes. Agreed. At the appointed hour, the President called the Senate to order.

## Report of Committees

Committee on Municipalities reported **SB 18, SB 19** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 18**, by Senator John C. Anggelis: AN ACT relating to Planning and Zoning.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

KRS 100.330 be amended to read as follows:

KRS 100.330 Members of commission; term of office; vacancies.

(1) Each commission shall consist of five "city members" who shall be citizens and residents of the city, and three "county members" who shall be citizens of the county in which the city is located, residing outside the limits of the city. All members of the commission shall serve without compensation.

(2) The city members shall be chosen in the following manner: The mayor and supervisor of public works shall be ex officio members of the commission. The mayor shall appoint the remaining three city members who shall hold no other city or county office.

(3) The county member shall be chosen in the following manner: The county engineer shall be an ex officio member of the commission. The remaining members shall be chosen by the fiscal court from persons not holding any other city or county office.

(4) The members initially appointed by the mayor shall hold office according to designation in their appointment, one of them for two years, and the others for terms of four years each, and upon the expiration of their respective terms, the successor of each shall hold his office for a term of four years. Vacancies in the offices of members appointed by the mayor shall be filled by successors appointed by the mayor for unexpired term.

(5) The county member initially chosen by the fiscal court shall hold office for a term which shall expire two years after the next elective period of the county engineer and his successors shall hold office for a term of four years. Vacancies in the office of the appointive county members shall be filled by a successor appointed by the fiscal court for the remainder of the term of office in which the vacancy has occurred.

(6) Where any ex officio member in the employment of the city or county vacates his official position he shall ipso facto vacate his office as a member of the commission. Any incumbent otherwise qualified under this section shall hold office until his successor is chosen and qualified.

**SB 19**, by Senators E. W. Richmond, Wendell Van Hoose: AN ACT relating to police departments in second class cities, amending KRS 95.495.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 95.495 of the Kentucky Revised Statutes is amended to read as follows:

(1) In all cities of the second class, except those in which, by ordinance, the patrolmen are employed or paid by the day, the members of the police department shall not be required to work more than eight hours per day, for five days each week, except in the event of an emergency. Each member of the police department shall have an annual leave of fifteen working days with full pay.

(2) The salary of the members of the police department shall not be reduced by reason of the enactment of this section.

Section 2. Whereas, the members of the police departments of cities of the second class are required to work an unreasonable number of days each week, an emergency is declared to exist, and this Act shall become effective upon approval by the Governor.

### Reference of Bills

The President announced referral of the following bills:

Municipalities: **SB 68.**

Ways and Means: **SB 69, SB 70, SB 72.**

Transportation and Highways: **SB 71.**

Education: **SB 73, SB 76.**

Judiciary: **SB 74.**

Executive and Legislative Affairs: **SB 75.**

Senator Fields rose to a Point of Information and asked if the President of the University of Kentucky and the Director of the Department of Mines and Minerals would be present at the public hearing of the Appropriations Committee at 10:00 a.m., Tuesday, January 28, 1958 in the Senate Chamber.

The President ruled that the Appropriations Committee had announced a public hearing and in his opinion everyone was publicly invited.

Senator Bassett moved adjournment until 1:00 p.m., Tuesday, January 28, 1958. Agreed.

## TUESDAY, JANUARY 28, 1958

## EIGHTEENTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Carter Roberts, of the Church of the Nazarene, Frankfort.

The roll was called. All members present except Senator Overbey, who was granted leave of absence on motion of Senator McCann.

The reading of the Journal for Monday, January 27, 1958, dispensed with and the same approved on motion of Senator McCann.

### Motions

Senator Johnson moved that the Senate send flowers to Mrs. Overbey, wife of Senator George Overbey, who is ill. Unanimously agreed.

Senator Knuckles moved that the Senate send flowers to Mr. Joseph S. Chandler, father of Governor A. B. Chandler, who is ill at his home in Corydon, Kentucky. Unanimously agreed.

Senator Duffy moved that Jimmy Irvine and Sally Wells be made Honorary Pages of the Senate. Agreed.

Senator Greene moved that Frank Newberry, Jr. be made an Honorary Page of the Senate. Agreed.

Senator Ware moved that Henry Kreutzjans, George Huser, Tom Widmyer, John McCormack, Bobby Tranter, and Anthony Siegrist be made Honorary Pages of the Senate. Agreed.

Senator Knuckles moved that Jane Lee Winkler, Giselle Howard, Mary K. Jacobs, and Julian H. Golden be made Honorary Pages of the Senate. Agreed.

Senator Kelly moved that Norma Seithers be made an Honorary Page of the Senate. Agreed.

### Introductions

**SR 30,** by Senator Warinner: A CONCURRENT RESOLUTION providing for an inquiry into the feasibility of enlarging present laws relative to veteran's benefits; providing for a special committee and funds therefor; and declaring an emergency.

**SR 31,** by Senator Clay: A RESOLUTION requesting the Department of Highways and the road departments of the respective counties of the Commonwealth of Kentucky to protect natural foliage along the highways.

WHEREAS, the natural beauty of the Commonwealth is enhanced immeasurably by the foliage of the wide variety of trees native to the area;

WHEREAS, any needless damage to or destruction of the foliage of such trees reduces the attraction for tourists;

WHEREAS, increasing the number of tourists visiting the Commonwealth is of primary importance to its economic growth and well-being; and,

WHEREAS, it appears that the directives contained in instructions published by the Road-Side Department of the Federal Government offer practical common sense standards for the pruning of trees so located in the interest of both safety and conservation of beauty;

NOW, THEREFORE,

*Be it resolved by the Senate of the Commonwealth of Kentucky:*

Section 1. That the Department of Highways and the road departments of the various counties take immediate action to place the pruning and cutting of trees located on land abutting highways and roads under strict supervision.

Section 2. That such cutting and pruning as is necessary be accomplished, where practicable and consistent with the highest standards of safety, in accordance with the directives contained in the instructions published by the Road-Side Department of the Government of the United States.

Senator Clay moved the adoption of **SR 31.** Adopted by voice vote.

**SB 92,** by Senator Johnson: AN ACT relating to local public health.

**SB 93,** by Senator Johnson: AN ACT relating to the registration of marriages, divorces, annulments, and adoptions, with the State Department of Health.

**SB 94,** by Senator Johnson: AN ACT relating to births and deaths.

**SB 95,** by Senator Johnson: AN ACT relating to the distribution and sale of packages of hazardous substances intended for household use.

**SB 96,** by Senator Johnson: AN ACT relating to food establishments, hotels, rooming houses, boarding houses and restaurants.

**SB 97,** by Senator Johnson: AN ACT relating to hospitals, nursing homes and homes for the invalid and aged.

**SB 98,** by Senator Johnson: AN ACT relating to slaughterhouses and meat inspection.

**SB 99,** by Senator Johnson: AN ACT relating to barbiturate drugs.

**SB 100,** by Senator Johnson: AN ACT relating to plumbing.

**SB 101,** by Senator Johnson: AN ACT relating to narcotic drugs.

**SB 102,** by Senator Johnson: AN ACT relating to foods, drugs, cosmetics and devices.

**SB 103**, by Senator Fields: AN ACT relating to a Dental Scholarship Program.

**SB 104**, by Senators Anggelis, Johnson, and Hamilton: AN ACT relating to medical care for indigent persons.

**SB 105**, by Senator Freeman: AN ACT relating to taxation.

**SB 106**, by Senator Van Hoose: AN ACT relating to County Law Libraries.

**SB 107**, by Senators Richmond, Clay, Warinner, Greene, Jackson, Freeman, Blue, Van Hoose, Mrs. J. Harry Davis, Bonn, Kidwell, Young, Reuscher, Johnson, Robinson, Cornett, Francis, Melton, Ware, Knuckles, and Willis: AN ACT relating to the Teachers' Retirement System, amending Section 161.520 and 161.660 of the Kentucky Revised Statutes and creating additional sections.

**SB 108**, by Senators Richmond, Clay, Greene, Blue, Jackson, Freeman, Van Hoose, Mrs. J. Harry Davis, Anggelis, Kidwell, Bonn, Young, Reuscher, Johnson, Robinson, Cornett, Francis, Melton, Ware, Knuckles, and Willis: AN ACT relating to the Teachers' Retirement System of the State of Kentucky, amending Sections 161.340 and 161.430 of the Kentucky Revised Statutes.

**SB 109**, by Senator Clay: AN ACT relating to littering.

**SB 110**, by Senator Lucas: AN ACT relating to the financial responsibility of owners and operators of motor vehicles.

## Calendar

**SB 18, SB 19** were taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that they be read by title only. Agreed by a majority of the members elected. Ordered placed in Orders of the Day.

## Reference of Bills

The President announced referral of the following bills:

Revenue and Taxation: **SB 77.**

Executive and Legislative Affairs: **SB 78, SB 84, SB 87, SB 91.**

Banking and Insurance: **SB 79, SB 86, SB 89.**

Municipalities: **SB 80.**

Health and Welfare: **SB 81.**

Transportation and Highways: **SB 82, SB 83.**

Ways and Means: **SB 85, SB 90.**

Claims: **SB 88.**

Senator Bassett moved adjournment until 12:00, Noon, January 29, 1958. Agreed.

## WEDNESDAY, JANUARY 29, 1958

## NINETEENTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Carter Roberts, of the Church of the Nazarene, Frankfort.

The roll was called. All members present except Senator Overbey, who was granted leave of absence on motion of Senator Bassett.

The reading of the Journal for Tuesday, January 28, 1958, dispensed with and the same approved on motion of Senator Bassett.

### Address

Senator Kidwell moved that the Senate be at ease for the purpose of hearing Mr. Herbert Wiltsee, Regional Representative of The Council of State Governments, Chicago, Illinois. Agreed.

The President introduced Mr. Wiltsee, who addressed the Senate.

### Motions

Senator Young moved that Judy Hopkins be made an Honorary Page of the Senate. Agreed.

### Introductions

**SR 32**, by Senator Ware: A RESOLUTION extending congratulations to Kenton County upon the occasion of the one hundred eighteenth anniversary of its creation.

WHEREAS, Kenton County will on January twenty-ninth, one thousand nine hundred and fifty eight anni domino celebrate the one hundred eighteenth year of its official existence;

WHEREAS, Kenton County has had a major part in the making of the colorful and romantic history for which our beloved Commonwealth is justly famous;

WHEREAS, the citizens of Kenton County have been among the front runners in the Commonwealth in progress having by unity of purpose, unselfish cooperation and tireless labor developed a community of beautiful homes, fine schools and stately churches;

WHEREAS, Kenton County has paralleled its progress in the educational and aesthetic by its industrial progress thereby assuring the physical as well as the mental and spiritual well being of its citizens;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the Commonwealth of Kentucky:*

Section 1. That the House of Representatives of the Commonwealth of Kentucky does hereby extend to Kenton County its congratulations upon the occasion of its one hundred eighteenth anniversary.

Section 2. That the clerk of the House of Representatives cause copies of this resolution to be sent to the county judge and clerk of Kenton County.

Senator Ware moved adoption of **SR 32.** Adopted by voice vote.

Senator Melton moved that when the Senate adjourn today, it adjourn in honor of Kenton County. Agreed.

**SR 33,** by Senator Duffy: A RESOLUTION commending the University of Louisville football team upon its achievement in winning the 1957 Sun Bowl Game.

WHEREAS, the 1957 University of Louisville football team has enjoyed a most successful season;

WHEREAS, the said University of Louisville football team has climaxed the 1957 season by defeating Drake University of Des Moines, Iowa in the Sun Bowl Game at El Paso, Texas on New Year's Day by the score of 34 - 20;

WHEREAS, by a combination of an enviable season record and the winning of the Sun Bowl Game, the said University of Louisville football team has brought additional honor and glory to the Commonwealth of Kentucky; and

WHEREAS, the gentlemanly and sportsmanlike conduct exhibited by the individual members of the University of Louisville team has reflected the highest credit upon the citizens of the Commonwealth and its educational institutions;

NOW, THEREFORE,

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Senate of the General Assembly of the Commonwealth of Kentucky does hereby express its commendation to the University of Louisville football team upon its achievement in defeating Drake University in the 1957 Sun Bowl Game.

Section 2. That the Clerk of the Senate cause copies of this Resolution to be presented to the President of the University of Louisville, the Dean of the University of Louisville, the football coach, athletic director and to each member of the team.

Senator Duffy moved the adoption of **SR 33.** Adopted by voice vote.

**SR 34,** by Senators Miller, Knuckles, Byers, Warinner, Cornett, Lucas, Van Hoose, Duncan, and Mrs. J. Harry Davis: A JOINT RESO-

LUTION authorizing and directing the Legislative Research Commission to study the feasibility of the Commonwealth's purchasing the land on which dams are to be located by the United States Corps of Engineers.

**SB 111**, by Senators McCann, Bonn, Hickerson: AN ACT relating to income tax, authorizing deductions for school expenses and rearranging the subsections of KRS 141.010.

**SB 112**, by Senators Warinner and Fields: AN ACT relating to cial security, extending coverage to teachers.

**SB 113**, by Senator Warinner: AN ACT relating to warehouses and warehousemen.

**SB 114**, by Senators Van Hoose and Greene: AN ACT relating to liability for the operation of motor vehicles.

**SB 115**, by Senators Duffy, Bonn, McCann, and Young: AN ACT relating to parks, playgrounds, and recreation centers in cities and counties.

**SB 116**, by Senators Duffy, Bonn, McCann, and Young: AN ACT relating to county forests.

**SB 117**, by Senators Duffy, Bonn, McCann, and Young: AN ACT relating to metropolitan sewer districts and the construction and maintenance of facilities for surface drainage at cost of benefited property and amending Chapter 76 of the Kentucky Revised Statutes.

**SB 118**, by Senators Reuscher and Clay: AN ACT relating to juvenile court.

**SB 119**, by Senators Duffy, Bonn, McCann, and Young: AN ACT relating to metropolitan sewer districts and the construction of sewer or drainage facilities at cost of benefited property, and amending Chapter 76 Kentucky Revised Statutes.

**SB 120**, by Senator Francis: AN ACT relating to city manager form of government; election and term of commissioners, mayor and police judge.

## Orders of the Day

**SB 18** taken from Orders of the Day, and ordered read at length the third time. Senator Anggelis moved that it be read by title only. Agreed by a majority of members elected.

Senator Melton moved the Previous Question on **SB 18.**

Agreed.

On roll call, the vote was: Yeas, 36—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. Harry Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard Howell, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, and Young; Nays 0. The bill was passed and the title agreed to.

Senator Melton moved that the vote by which bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 19** taken from Orders of the Day, and ordered read at length the third time. Senator Richmond moved that it be read by title only. Agreed by a majority of members elected.

Senator Richmond moved the Previous Question on **SB 19.**

Agreed.

On roll call, the vote was: Yeas, 34—Anggelis, Bassett, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. Harry Davis, Duffy, Duncan, Fields, Francis, Freeman, Hamilton, Hickerson, Howard, Howell, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, and Young; Nays, 0. The bill was passed and the title agreed to.

Senator Richmond moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

### House Message

Announcing passage of **HR 22, HR 29, SR 19, SR 21, SR 25, SR 27, SR 28, SR 29.** Ordered that **HR 22** be referred.

### Reference of Bills

The President referred **HR 22** to the Appropriations Committee.

### Recess

Senator Bassett moved that the Senate do now recess for five minutes. Agreed. At the appointed hour, the President called the Senate to order.

### Report of Committees

Committee on Appropriations reported **HR 22** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HR 22,** A JOINT RESOLUTION making an appropriation to the Legislative Research Commission for special expenses incurred in connection with sessions of the General Assembly and declaring an emergency.

WHEREAS, additional personnel are necessary to expedite properly the business of the Senate and the House of Representatives; and

WHEREAS, the present appropriation of the Legislative Research Commission is insufficient to provide adequate clerical services to the General Assembly;

NOW, THEREFORE,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That there is appropriated out of the General Expenditure Fund to the Legislative Research Commission the sum of one thousand and five hundred dollars per calendar day during all regular and special sessions of the General Assembly. This appropriation shall be available for expenditure during the 1957-58 fiscal year.

WHEREAS, the General Assembly is now in session and it is necessary that these funds be available immediately, an emergency is declared to exist and this resolution shall become effective upon its passage and approval by the Governor, and shall be retroactive to include payment of compensation to such personnel from and including January 7, 1958.

Senator Bassett moved adoption of **HR 29.**

**HR 29:** A CONCURRENT RESOLUTION relating to adjournment of the General Assembly.

*Be it resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That when the House of Representatives and the Senate adjourn on Wednesday, January 29, 1958 they adjourn to Monday, February 3, 1958, 8 p.m. and that said adjournment be in the memory of President Franklin D. Roosevelt.

Section 2. This adjournment recognizes that Thursday, January 30, 1958 is not a legislative day within the meaning of Section 42 of the Constitution. KRS 2.110 specifies that January 30, 1958, Franklin D. Roosevelt Day, is a legal holiday. Section 42 of the Constitution excludes Sunday and legal holidays in the count of sixty legislative days.

Agreed.

### Reference of Bills

The President announced referral of the following bills and resolutions:

Health and Welfare: **SB 92, SB 93, SB 94, SB 95, SB 96, SB 97, SB 98, SB 99, SB 100, SB 101, SB 102, SB 104.**

Executive and Legislative Affairs: **SB 103.**

Revenue and Taxation: **SB 105.**

State and County Government: **SB 106.**

Education: **SB 107, SB 108.**

Transportation and Highways: **SB 109.**

Banking and Insurance: **SB 110.**

Ways and Means: **SR 30.**

Senator Bassett moved adjournment until 8:00 p.m., Monday, February 3, 1958. Agreed.

## MONDAY, FEBRUARY 3, 1958

## TWENTY-SECOND LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Fred T. Moffatt of the First Baptist Church of Frankfort.

The roll was called. All members present except Senator Overbey, who was granted leave of absence on motion of Senator McCann.

Reading of the Journal for Wednesday, January 29, 1958 dispensed with and the same approved on motion of Senator McCann.

### Motions

Senator Young moved suspension of the Rules for the purpose of granting Arthur W. Grafton, a former member of the Senate, the privilege of the floor. Agreed.

Senator Blake moved suspension of the Rules for the purpose of granting R. W. Keenon, a former member of the Senate, the privilege of the floor. Agreed.

### Introductions

**SR 35**, by Senator Fields: A CONCURRENT RESOLUTION requesting and urging the Board of Trustees of the University of Kentucky to establish a College of Mines and Minerals.

WHEREAS, the production of various mineral commodities, including coal, petroleum, natural gas, flourspar and native asphalt, cement and stone, is of great importance to the economy of the Commonwealth of Kentucky; and

WHEREAS, the technology and the competitive position of Kentucky's mineral industry would be substantially improved by a concerted program of education and research;

NOW, THEREFORE,

*Be it resolved by the Senate of the Commonwealth, the House of Representatives concurring:*

Section 1. That the Board of Trustees of the University of Kentucky be and is hereby requested to establish, as a part of the University, a College of Mines and Minerals.

Section 2. That the Clerk of the Senate be and is hereby directed to forward copies of this resolution, duly authenticated to the President of the University of Kentucky, and to each member now serving on the Board of Trustees of the University of Kentucky.

Senator Fields moved the adoption of **SR 35.** Adopted by voice vote.

**SB 121**, by Senator McCann: AN ACT relating to the driving of motor vehicles upon the public highway while under the influence of various drugs.

**SB 122**, by Senator Anggelis: AN ACT relating to the organization of County Children's Bureaus.

**SB 123**, by Senator Francis: AN ACT relating to motor vehicles.

**SB 124**, by Senator Miller: AN ACT authorizing the refund of ninety percent of the tax paid on gasoline used in farm tractors and all other non-highway uses; conditions of refund; and amending KRS 138.344, Section 1.

**SB 125**, by Senator Miller: AN ACT relating to income tax authorizing deduction for education expenses and adding subsection of KRS 141.010.

**SB 126**, by Senator Knuckles: AN ACT relating to insurance.

**SB 127**, by Senator Freeman: AN ACT relating to primary elections.

**SB 128**, by Senator Fields: AN ACT relating to Dental Service Plan Corporations.

**SB 129**, by Senator Fields: AN ACT relating to workmen's compensation.

**SB 130**, by Senator Fields: AN ACT relating to rest periods for women and minors.

**SB 131**, by Senator Fields: AN ACT relating to employers' bonds for the payment of wages to industrial employees.

**SB 132**, by Senator Francis: AN ACT relating to social security, extending coverage to certain state schools.

**SB 133**, by Senator Duncan: AN ACT relating to terms of court for the thirty-fourth judicial district.

### Report of Committees

Committee on Suffrage, Elections and Constitutional Amendments reported **SB 31**, **SB 27**, **SB 22** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 31**: AN ACT relating to registration of voters.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 117.620 of the Kentucky Revised Statutes is amended to read as follows:

(1) Any person possessing the qualifications for registration as a legal voter may appear before the county clerk of the county of his residence or at the temporary branch office authorized by the county

board of registration and purgation, or at the permanent office or a branch office of the board of registration commissioners if he resides in a city of the first class, and register, or change his party affiliations, at any hour of any day that the office of the county clerk or said temporary branch office or the board of registration commissioners is open for business. The county clerk of every county and the board of registration commissioners of every city of the first class shall cause all registration books or lists to be closed fifty-nine days prior to and five days following any primary or general election and ten days prior to any special election. However, when an election is held entirely within a city or part thereof, the registration books shall be open to persons who by reason of residence could not participate in the city election. No person shall be registered or be permitted to change his registration during the period that the books are closed to applicants of his residence classification.

(2) In all counties the county clerk, when authorized by the county board, shall receive registrations, transfers, or change of party affiliation at branch offices at any place in the county, provided such offices are housed in a public building to be selected by the county board. The branch offices shall not be open for a longer period than fifteen days, prior to the closing of the registration books prior to any primary or general election, and but one branch office shall be open in any county at the same time. Any person possessing the qualifications for registration as a legal voter of any voting precinct in the county may appear before the clerk during the period the books are open at the office or branch office, and register or change his party affiliation or transfer his registration card.

(3) For the purpose of registering voters in a city of the second or third class which is not the county seat, the county clerk shall maintain a branch office in the courthouse or city hall of the city and take thereto the registration books for each voting precinct in the city and keep them there during the periods the books are open.

(4) Any voter who wishes to change his party affiliation and who does not wish to apply in person may apply to the county clerk, or to the board of registration commissioners if he resides in a city of the first class, by letter or by form which may be provided. The clerk or board shall then mail a notice to the address of the voter appearing on the existing registration records, stating that such application has been made and the particulars thereof, and that the change will be made unless protest is filed at the office of the clerk or the board within ten days from the date of notice. If no protest is filed within the ten day period, the county clerk or the board shall change the party affiliation of the voter as requested. If a protest is filed, the change shall not be made until the clerk or the board has investigated the matter and given the protesting voter an opportunity to be heard. The date on which the change is made shall be noted on the voter's

registration record. No change of party affiliation shall be made except on those days when registrations are allowed under subsection (1) of this section.

**SB 27**: AN ACT relating to the conduct of regular elections.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 118.400 of the Kentucky Revised Statutes is amended to read as follows:

(1) The county board of election commissioners shall issue certificates of election where the successful candidate was voted for by a county or by a district less than one county. The board shall forward the certificate to the elected candidate, unless he has failed to comply with KRS 123.060, 123.070 or 123.080. If the board finds that two or more candidates have received the highest and equal number of votes for the same office, the board shall determine by lot which of the candidates is elected.

(2) In the case of offices voted for by the state at large or by a district greater than one county, and in the case of public questions submitted to the vote of the people of the state at large or of a district greater than one county, the county board of election commissioners shall make out duplicate certificates of the total number of votes received by each of the candidates for such offices, and the total number of votes for and against each of such questions. The county clerk shall keep one of the certificates in his office. He shall not later than three days after the completion of the count of the votes by the board, forward the other certificate by mail to the Secretary of State, who shall deliver it to the State Board of Election Commissioners.

Section 2. Any county clerk who fails to comply with subsection (2) of KRS 118.400 shall be fined not less than twenty-five dollars nor more than one hundred dollars. Each day such violation occurs shall constitute a separate offense.

**SB 22**: AN ACT relating to primary elections.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 119.040 of the Kentucky Revised Statutes is amended to read as follows:

The primary election for the nomination of candidates by political parties to be voted on at the following regular election shall be held on the last Saturday in May of each year between the hours of 6 a.m. and 5 p.m. at the regular polling place in each election precinct.

Committee on Executive and Legislative Affairs reported **SB 54** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 54**: AN ACT relating to trial commissioners appointed by county judges.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 25.280 of the Kentucky Revised Statutes is amended to read as follows:

The county judge in each county of this Commonwealth, wherein the fiscal court may approve their use in the county, is hereby authorized to appoint a trial commissioner or commissioners who shall hold office at the pleasure of the judge, and shall discharge such judicial duties of the judge of the county court and the judge of the quarterly court as may be assigned to him by the judge. The commissioner shall report his actions to the judge for the approval or disapproval of the judge. The commissioner must possess the qualifications of a judge of the county court. He shall receive a salary to be fixed by the fiscal court of the county. The salary of the commissioner shall be paid in the same way as the county judge is paid.

Section 2. Whereas the lack of criminal jurisdiction in the justice's courts of the Commonwealth has increased the criminal dockets in county courts and quarterly courts, creating a need for trial commissioners, an emergency is declared to exist and this Act shall take effect upon its approval by the Governor.

Committee on Appropriations reported **HB 1** with the expression of opinion that the same should pass by way of committee substitute. Committee substitute for **HB 1** read at length for the first time and ordered placed in the Calendar.

AN ACT relating to appropriations for the operation, maintenance, support and functioning of the Government of the Commonwealth of Kentucky and its various officers, departments, boards, institutions, subdivisions, agencies and other state supported activities.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

## PART ONE

There is appropriated out of the General Expenditure Fund, including any unappropriated surplus to the General Expenditure Fund as of June 30, 1958, for the fiscal year beginning July 1, 1958, and ending June 30, 1959, and for the fiscal year beginning July 1, 1959, and ending June 30, 1960, the following sums for the following officers, departments, boards, commissions, institutions, and subdivisons of the State Government, and any and all other agencies of the State Government of the Commonwealth of Kentucky subject to the provisions of Chapters 12, 42, and 45 of the Kentucky Revised Statutes, for which a specific appropriation is in Part One listed as follows:

## I. GENERAL GOVERNMENT

### 1. LEGISLATIVE

A. *Legislative Sessions*

| | |
|---|---|
| 1959-60 | $501,790 |

B. *Legislative Research Commission*

| | |
|---|---|
| 1958-59 | $144,955 |
| 1959-60 | $148,365 |

C. *Legislative Journals and Acts.* For the preparing, indexing, editing, and printing the Journals and Acts of the General Assembly. Any unexpended balance at the end of the first fiscal year of the biennium shall be carried over to the second year.

| | |
|---|---|
| 1958-59 | $28,500 |
| 1959-60 | $10,400 |

D. *The Council of State Governments*

| | |
|---|---|
| 1958-59 | $9,375 |
| 1959-60 | $9,375 |

E. *Statute Revision and Administrative Regulations*

| | |
|---|---|
| 1958-59 | $52,205 |
| 1959-60 | $52,730 |

TOTAL—LEGISLATIVE

| | |
|---|---|
| 1958-59 | $235,035 |
| 1959-60 | $722,660 |

### 2. LIEUTENANT GOVERNOR

A. *Office of the Lieutenant Governor*

| | |
|---|---|
| 1958-59 | $17,200 |
| 1959-60 | $17,200 |

B. *Operation of Old Governor's Mansion*

| | |
|---|---|
| 1958-59 | $4,950 |
| 1959-60 | $4,950 |

TOTAL—LIEUTENANT GOVERNOR

| | |
|---|---|
| 1958-59 | $22,150 |
| 1959-60 | $22,150 |

### 3. JUDICIARY

A. *Court of Appeals.* For normal recurring operating costs of Court of Appeals, including salaries of judges and commissioners.

| | |
|---|---|
| 1958-59 | $256,110 |
| 1959-60 | $256,390 |

A-1. *Court of Appeals.* To be expended for salaries and expenses of three additional commissioners in the Court of Appeals, contingent upon passage of enabling legislation by the 1958 General Assembly.

| | |
|---|---|
| 1958-59 | $25,000 |
| 1959-60 | $25,000 |

B. Clerk of Court of Appeals

| | |
|---|---|
| 1958-59 | $36,140 |
| 1959-60 | $37,530 |

C. *Judicial Council*

| | |
|---|---|
| 1958-59 | $18,300 |
| 1959-60 | $18,300 |

D. *Circuit Courts.* For salaries and expenses of circuit judges.

| | |
|---|---|
| 1958-59 | $471,510 |
| 1959-60 | $471,510 |

E. *Circuit Judges' Retirement System.* For administering and complying with the obligations of the State under the Circuit Judges' Retirement System Act, namely, KRS 23.300 to 23.380.

| | |
|---|---|
| 1958-59 | $8,700 |
| 1959-60 | $8,700 |

F. *State Law Library*

| | |
|---|---|
| 1958-59 | $34,120 |
| 1959-60 | $34,120 |

---

TOTAL–JUDICIARY

| | |
|---|---|
| 1958-59 | $849,880 |
| 1959-60 | $851,550 |

---

## 4. EXECUTIVE DEPARTMENT

A. *Governor's Office*

| | |
|---|---|
| 1958-59 | $85,230 |
| 1959-60 | $86,035 |

B. *Contingent Fund*

| | |
|---|---|
| 1958-59 | $12,000 |
| 1959-60 | $12,000 |

C. *General Emergency Fund.* For meeting expenses deemed emergencies by the Governor, and to be expended by the Governor in his discretion for any emergency that he may determine requires the expenditure of any part of said fund. Any unexpended balance at the end of the first fiscal year of the biennium shall be carried over to the second year.

| | |
|---|---|
| 1958-59 | $500,000 |
| 1959-60 | $500,000 |

---

TOTAL–EXECUTIVE DEPARTMENT

| | |
|---|---|
| 1958-59 | $597,230 |
| 1959-60 | $598,035 |

---

## 5. SECRETARY OF STATE

A. *Secretary of State*

| | |
|---|---|
| 1958-59 | $61,350 |
| 1959-60 | $62,250 |

### 6. DEPARTMENT OF LAW

A. *Attorney General*

| | |
|---|---|
| 1958-59 | $131,300 |
| 1959-60 | $132,350 |

### 7. DEPARTMENT OF THE TREASURY

A. *State Treasurer*

| | |
|---|---|
| 1958-59 | $109,460 |
| 1959-60 | $107,185 |

### 8. AUDITOR OF PUBLIC ACCOUNTS

A. *Auditor of Public Accounts*

| | |
|---|---|
| 1958-59 | $134,200 |
| 1959-60 | $137,700 |

### 9. DEPARTMENT OF FINANCE

A. *General Operations*

| | |
|---|---|
| 1958-59 | $639,480 |
| 1959-60 | $648,010 |

B. *Confederate Pensions*

| | |
|---|---|
| 1958-59 | $11,500 |
| 1959-60 | $10,500 |

C. *Paper for Election Ballots*

| | |
|---|---|
| 1958-59 | $10,000 |
| 1959-60 | $10,000 |

D. *Division of Services.* For general operations.

| | |
|---|---|
| 1958-59 | $370,660 |
| 1959-60 | $370,200 |

E. *Division of Services.* For operation of the Executive Mansion.

| | |
|---|---|
| 1958-59 | $30,900 |
| 1959-60 | $31,300 |

TOTAL—DEPARTMENT OF FINANCE

| | |
|---|---|
| 1958-59 | $1,062,540 |
| 1959-60 | $1,070,010 |

### 10. DEPARTMENT OF PERSONNEL

A. *Department of Personnel*

| | |
|---|---|
| 1958-59 | $107,350 |
| 1959-60 | $108,155 |

### 11. DEPARTMENT OF REVENUE

A. *General Operations*

| | |
|---|---|
| 1958-59 | $1,589,100 |
| 1959-60 | $1,612,000 |

B. *Reappraisals*

| | |
|---|---|
| 1958-59 | $75,000 |
| 1959-60 | $75,000 |

Any unexpended balance at the end of the 1958-59 fiscal year shall carry forward to the 1959-60 fiscal year.

C. *County Tax Commissioners*

| | |
|---|---|
| 1958-59 | $1,603,000 |
| 1959-60 | $1,460,300 |

TOTAL—DEPARTMENT OF REVENUE

| | |
|---|---|
| 1958-59 | $3,267,100 |
| 1959-60 | $3,147,300 |

## 12. ELECTIONS

A. *Board of Election Commissioners*

| | |
|---|---|
| 1958-59 | $900 |
| 1959-60 | $900 |

B. *Board of Registration and Purgation*

| | |
|---|---|
| 1958-59 | $5,400 |
| 1959-60 | $3,500 |

C. *Elections.* For County Elections (State Share).

| | |
|---|---|
| 1958-59 | $170,000 |
| 1959-60 | $170,000 |

D. *County Registration and Purgation Boards—State Share*

| | |
|---|---|
| 1958-59 | $65,000 |
| 1959-60 | $65,000 |

TOTAL—ELECTIONS

| | |
|---|---|
| 1958-59 | $241,300 |
| 1959-60 | $239,400 |

## 13. DEPARTMENT OF MILITARY AFFAIRS

A. *Adjutant General*

| | |
|---|---|
| 1958-59 | $175,380 |
| 1959-60 | $176,480 |

B. *Armories—Rental*

| | |
|---|---|
| 1958-59 | $121,720 |
| 1959-60 | $121,720 |

C. *Repairs to Armories*

| | |
|---|---|
| 1958-59 | $34,400 |
| 1959-60 | $35,400 |

D. *Civil Defense*

| | |
|---|---|
| 1958-59 | $42,600 |
| 1959-60 | $43,200 |

TOTAL—DEPARTMENT OF MILITARY AFFAIRS

| | |
|---|---|
| 1958-59 | $374,100 |
| 1959-60 | $376,800 |

## 14. KENTUCKY DISABLED EX-SERVICE MEN'S BOARD

A. *Kentucky Disabled Ex-Service Men's Board*

| | |
|---|---|
| 1958-59 | $128,350 |
| 1959-60 | $129,200 |

## 15. DEPARTMENT OF PUBLIC SAFETY

A. *General Operations.* To be used for the Office of the Commissioner, Division of State Police, and Division of Accident Control.

| | |
|---|---|
| 1958-59 | $263,220 |
| 1959-60 | $270,675 |

B. *Division of Fire Prevention*

| | |
|---|---|
| 1958-59 | $261,775 |
| 1959-60 | $259,175 |

TOTAL—DEPARTMENT OF PUBLIC SAFETY

| | |
|---|---|
| 1958-59 | $524,995 |
| 1959-60 | $529,850 |

## 16. DEPARTMENT OF AERONAUTICS

A. *General Operations*

| | |
|---|---|
| 1958-59 | $82,010 |
| 1959-60 | $90,145 |

B. *Emergency and Disaster Relief in Cooperation with Civil Air Patrol*

| | |
|---|---|
| 1958-59 | $10,000 |
| 1959-60 | $10,000 |

TOTAL—DEPARTMENT OF AERONAUTICS

| | |
|---|---|
| 1958-59 | $ 92,010 |
| 1959-60 | $100,145 |

## 17. DEPARTMENT OF ECONOMIC DEVELOPMENT

A. *General Operations*

| | |
|---|---|
| 1958-59 | $337,500 |
| 1959-60 | $313,300 |

B. *Planning and Zoning Division*

| | |
|---|---|
| 1958-59 | $72,265 |
| 1959-60 | $66,785 |

C. *Capital City Metropolitan Plan*

| | |
|---|---|
| 1958-59 | $9,655 |
| 1959-60 | $ 630 |

D. *Agricultural and Development Research*

| | |
|---|---|
| 1958-59 | $25,000 |
| 1959-60 | $25,000 |

TOTAL—DEPARTMENT OF ECONOMIC DEVELOPMENT

| | |
|---|---|
| 1958-59 | $444,420 |
| 1959-60 | $405,715 |

### 18. DEPARTMENT OF BUSINESS REGULATION

A. *Division of Athletic Control*

| | |
|---|---|
| 1958-59 | $16,900 |
| 1959-60 | $16,900 |

### 19. DEPARTMENT OF INDUSTRIAL RELATIONS

A. *Department of Industrial Relations.* For general operations other than the Workmen's Compensation Board.

| | |
|---|---|
| 1958-59 | $123,340 |
| 1959-60 | $126,990 |

### 20. DEPARTMENT OF MINES AND MINERALS

A. *Department of Mines and Minerals*

| | |
|---|---|
| 1958-59 | $250,000 |
| 1959-60 | $250,600 |

### 21. RAILROAD COMMISSION

A. *Railroad Commission*

| | |
|---|---|
| 1958-59 | $31,800 |
| 1959-60 | $32,500 |

### 22. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

A. *Department of Alcoholic Beverage Control*

| | |
|---|---|
| 1958-59 | $236,100 |
| 1959-60 | $236,500 |

### 23. APPROPRIATIONS NOT OTHERWISE CLASSIFIED

A. *Money Refunded.* For refunding money paid into the State Treasury, which may be later determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and the approval of the Commissioner of Finance and the Attorney General.

| | |
|---|---|
| 1958-59 | The Amount Necessary |
| 1959-60 | The Amount Necessary |

B. *Bonds of Elective and Appointive Officers.* For payment of premiums on bonds of elected and appointed State Officials who are required by law to execute bonds to the Commonwealth of Kentucky, the payment of which is incumbent upon the State.

| | |
|---|---|
| 1958-59 | $13,000 |
| 1959-60 | $13,000 |

C. *Judgments.* For payment of such judgments as may be rendered against the Commonwealth by order of Court and approved by the Attorney General.

1958-59 ---------------------------------- $10,000
1959-60 ---------------------------------- $10,000

D. *Frankfort Cemetery*

1958-59 ---------------------------------- $250
1959-60 ---------------------------------- $250

E. *Franklin Circuit Court.* For purchase of supplies and equipment in accordance with KRS 28.165.

1958-59 ---------------------------------- $300
1959-60 ---------------------------------- $300

F. *Statutes, Rules and Regulations for Courts.* For the purpose only of purchasing from the Legislative Research Commission copies of the official statutes of Kentucky, and annotations thereto, codes of practice and procedure, together with supplements thereto, and administrative regulations compilations in accordance with KRS 57.340, except where the Legislative Research Commission does not publish such material and the Director of the Legislative Research Commission so certifies. In such case, the State Law Librarian is authorized to purchase said material from commercial sources. Any unexpended balance at the end of the first fiscal year of the biennium shall be carried over to the second year.

1958-59 ---------------------------------- $3,000
1959-60 ---------------------------------- $3,000

G. *Interstate Oil Compact*

1958-59 ---------------------------------- $1,000
1959-60 ---------------------------------- $1,000

H. *Special Legislative Claims*

1958-59 -------------------------- The Amount Necessary
1959-60 -------------------------- The Amount Necessary

I. *Back Tax Collections*

1958-59 -------------------------- The Amount Necessary
1959-60 -------------------------- The Amount Necessary

J. *Prior Year Claims*

1958-59 -------------------------- The Amount Necessary
1959-60 -------------------------- The Amount Necessary

K. *Public Improvements.* For paying assessments for public works against property owned by the State as provided by KRS 93.440 and 94.297.

1958-59 ---------------------------------- $7,000
1959-60 ---------------------------------- $7,000

L. *Board of Claims Awards and Costs.* For the payment of awards or judgments made and costs taxed by the Board of Claims against departments, boards, commissions and other agencies maintained by appropriations out of the General Fund.

1958-59 ................................ $15,000
1959-60 ................................ $15,000

M. *Capital Planning and Zoning Commission.* For expenses of participation in the program of the Commission.

1958-59 ................................ $ 600
1959-60 ................................ $1,000

N. *Social Security for Circuit Clerks, Master Commissioners, and Court Reporters*

1958-59 ................................ $12,250
1959-60 ................................ $12,250

O. *Retirement—Circuit Clerks*

1958-59 ................................ $25,000
1959-60 ................................ $25,000

P. *Blanket Employee Surety Bonds.* For payment of premiums on blanket surety bonds as provided by KRS 62.170.

1958-59 ................................ $6,000
1959-60 ................................ $8,500

Q. *Presidential Electors Expense*

1959-60 ................................ $650

TOTAL—APPROPRIATIONS NOT OTHERWISE CLASSIFIED

1958-59 ................................ $93,400
1959-60 ................................ $96,950

## 24. COUNTY COSTS

A. *Clerk's Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Funds (Circuit Clerks), Commissions on Fines and Forefeitures, Commonwealth's Attorneys, Return of Fugitives from Justice, County Highway Patrol, Premiums on Sheriff's Bonds, Pauper Idiots, and County Boards of Supervisors.* All County Costs are deemed to be necessary governmental expenses and additional funds may be allotted by the Commissioner of Finance.

1958-59 ................................ $3,034,600
1959-60 ................................ $3,034,600

## 25. DEPARTMENT OF INSURANCE

A. *General Operations*

1958-59 ................................ $296,900
1959-60 ................................ $299,100

## 26. KENTUCKY STATE HISTORICAL SOCIETY

A. *Kentucky State Historical Society*

1958-69 ................................ $30,065
1959-60 ................................ $32,740

### 27. LIBRARY EXTENSION DIVISION

A. *General Operations*

| | |
|---|---|
| 1958-59 | $155,000 |
| 1959-60 | $155,000 |

B. *Public Library Service Commission*

| | |
|---|---|
| 1958-59 | $50,000 |
| 1959-60 | $50,000 |

TOTAL—LIBRARY EXTENSION DIVISION

| | |
|---|---|
| 1958-59 | $205,000 |
| 1959-60 | $205,000 |

### 28. DEPARTMENT OF PUBLIC RELATIONS

A. *Department of Public Relations*

| | |
|---|---|
| 1958-59 | $209,405 |
| 1959-60 | $219,020 |

B. Governor's Commission on Tourist Promotion. To be used by the Department for staff and promotional activities recommended by the Governor's Commission on Tourist Promotion and approved by the Governor.

| | |
|---|---|
| 1958-59 | $50,000 |
| 1959-60 | $50,000 |

TOTAL—DEPARTMENT OF PUBLIC RELATIONS

| | |
|---|---|
| 1958-59 | $259,405 |
| 1959-60 | $269,020 |

### 29. DEPARTMENT OF MOTOR TRANSPORTATION

A. *Division of Motor Vehicle Dealer Licensing*

| | |
|---|---|
| 1958-59 | $40,960 |
| 1959-60 | $40,495 |

TOTAL I.—GENERAL GOVERNMENT

| | |
|---|---|
| 1958-59 | $13,001,240 |
| 1959-60 | $13,381,850 |

## II. HEALTH AND WELFARE

### 30. DEPARTMENT OF WELFARE

A. *Central Office.* For expenses of the Office of the Commissioner, Division of Staff Services, Division of Corrections and Division of Farm Management.

| | |
|---|---|
| 1958-59 | $200,100 |
| 1959-60 | $201,800 |

B. *Kentucky Training Home*

| | |
|---|---|
| 1958-59 | $892,500 |
| 1959-60 | $896,500 |

C. *Penal Institutions.* For expenses of Kentucky State Reformatory, Kentucky State Penitentiary, and Women's Prison.

| | |
|---|---|
| 1958-59 | $2,111,300 |
| 1959-60 | $2,137,500 |

D. *Divison of Probation and Parole*

| | |
|---|---|
| 1958-59 | $470,400 |
| 1959-60 | $473,200 |

E. *Parole Board*

| | |
|---|---|
| 1958-59 | $40,200 |
| 1959-60 | $40,400 |

F. *Children's Services.* For expenses of the Division of Children's Institutions, Kentucky Village and Kentucky Children's Home.

| | |
|---|---|
| 1958-59 | $1,117,300 |
| 1959-60 | $1,127,600 |

G. *Home for Incurables*

| | |
|---|---|
| 1958-59 | $15,000 |
| 1959-60 | $15,000 |

H. *Maintenance of Buildings*

| | |
|---|---|
| 1958-59 | $100,000 |
| 1959-60 | $100,000 |

TOTAL—DEPARTMENT OF WELFARE

| | |
|---|---|
| 1958-59 | $4,946,800 |
| 1959-60 | $4,992,000 |

### 31. DEPARTMENT OF ECONOMIC SECURITY

For ordinary expenses of operation and cooperation (matching of funds) with the Federal Government under the Social Security Act of August 14, 1935, and any amendments now in effect or hereinafter enacted and under any act of Congress supplementing said act as amended, including adjustments of prior year or current year accounts necessary to comply with the federal regulations. Also, for the administration of Old Age Assistance, Aid to Dependent Children, Services to Needy Children, Aid to the Needy Blind and Aid to the Permanently and Totally Disabled.

A. *Public Assistance – Administration.* Notwithstanding the provisions of KRS 45.235 and any other provisions of the Kentucky Revised Statutes, any unencumbered balance of this appropriation remaining at the end of the first fiscal year of the biennium shall lapse in accordance with the provisions of KRS 45.230.

| | |
|---|---|
| 1958-59 | $1,441,680 |
| 1959-60 | $1,456,850 |

B. *Public Assistance – Benefits.* For Old Age Assistance Payments, Aid to the Needy Blind, Aid to Dependent Children and Aid to the Permanently and Totally Disabled, and not to be used for costs of administration. Any unexpended balance at the end of the first fiscal year shall be carried over to the second and placed in a reserve fund which may be expended by the Commissioner of Economic Security for the purposes of this appropriation with the approval of the Governor.

1958-59 ------------------------------ $12,591,430
1959-60 ------------------------------ $12,791,220

C. *Children's Services – Administration.* Notwithstanding the provisions of KRS 45.236 and any other provisions of the Kentucky Revised Statutes, any unencumbered balance of this appropriation remaining at the end of the first fiscal year of the biennium shall lapse in accordance with the provisions of KRS 45.230.

1958-59 ---------------------------------- $496,720
1959-60 ---------------------------------- $504,210

D. *Children's Services – Benefits.* For boarding home care, medical care, and other benefit expenses, and not to be used for costs of administration. Notwithstanding the provisions of KRS 45.236 and any other provisions of the Kentucky Revised Statutes, any unencumbered balance of this appropriation remaining at the end of the first fiscal year of the biennium shall lapse in accordance with the provisions of KRS 45.230.

1958-59 ---------------------------------- $240,000
1959-60 ---------------------------------- $260,000

E. *Devision of Personnel Security.* For State's share of expenses in administering the Social Security Act.

1958-59 ----------------------------------- $17,720
1959-60 ----------------------------------- $17,750

---

TOTAL–DEPARTMENT OF ECONOMIC SECURITY

1958-59 ------------------------------ $14,787,550
1959-60 ------------------------------ $15,030,030

---

## 32. DEPARTMENT OF HEALTH

A. *General Operations*

1958-59 -------------------------------- $1,105,700
1959-60 -------------------------------- $1,053,400

B. *County Health*

1958-59 -------------------------------- $1,523,600
1959-60 -------------------------------- $1,782,000

Any unexpended balance at the end of the 1958-59 fiscal year shall carry forward to the 1959-60 fiscal year.

C. *Red Cross Hospital*

1958-59 ----------------------------------- $15,000
1959-60 ----------------------------------- $10,000

D. *Julius Marks Tuberculosis Sanatorium*

1958-59 ----------------------------------- $90,000
1959-60 ----------------------------------- $90,000

E. *Covington-Kenton County Tuberculosis Sanatorium*

| | |
|---|---|
| 1958-59 | $45,000 |
| 1959-60 | $45,000 |

F. *Warren County Tuberculosis Sanatorium*

| | |
|---|---|
| 1958-59 | $32,400 |
| 1959-60 | $32,400 |

G. *Waverly Hills Tuberculosis Sanatorium*

| | |
|---|---|
| 1958-59 | $250,000 |
| 1959-60 | $250,000 |

H. *Water Pollution Control Commission*

| | |
|---|---|
| 1958-59 | $29,600 |
| 1959-60 | $30,300 |

I. *American Society for Control of Cancer – Kentucky Division*

| | |
|---|---|
| 1958-59 | $45,000 |
| 1959-60 | $45,000 |

J. *Rural Medical Scholarship Fund.* To be expended for the purposes of the present rural medical scholarship fund only.

| | |
|---|---|
| 1958-59 | $25,000 |
| 1959-60 | $25,000 |

TOTAL–DEPARTMENT OF HEALTH

| | |
|---|---|
| 1958-59 | $3,161,300 |
| 1959-60 | $3,363,100 |

## 33. KENTUCKY CRIPPLED CHILDREN COMMISSION

A. *Kentucky Crippled Children Commission*

| | |
|---|---|
| 1958-59 | $241,300 |
| 1959-60 | $243,700 |

## 34. STATE TUBERCULOSIS HOSPITAL COMMISSION

A. *State Tuberculosis Hospital Commission.* For administrative and operating expenses of the Commission and institutions under its control and supervision.

| | |
|---|---|
| 1958-59 | $2,450,815 |
| 1959-60 | $2,472,195 |

## 35. DEPARTMENT OF MENTAL HEALTH

A. *Department of Mental Health*

| | |
|---|---|
| 1958-59 | $8,189,340 |
| 1959-60 | $8,282,330 |

TOTAL–II. HEALTH AND WELFARE

| | |
|---|---|
| 1958-59 | $33,777,105 |
| 1959-60 | $34,383,355 |

## III. EDUCATION

### 36. DEPARTMENT OF EDUCATION

A. *General Operations.* For expenses of the divisions within the department and the State Board of Education.

| | |
|---|---|
| 1958-59 | $813,430 |
| 1959-60 | $829,135 |

B. *Diviison of Education for Veterans (Veterans' Approval Agency).* For payment of administrative expenses in connection with the approval of educational institutions for training and educating veterans for which reimbursement is made by the Federal Government. This appropriation shall not lapse at the end of the fiscal year 1958-59, but shall be available during the second year of the biennium, and shall lapse at the end of the biennium.

| | |
|---|---|
| 1958-59 | $14,000 |

C. *School Foundation Program*

| | |
|---|---|
| 1958-59 | $60,105,700 |
| 1959-60 | $62,481,300 |

The State Board of Education shall not approve any working budget or salary schedule for local boards of education for the school years 1958-59 and 1959-60 in which the total amount budgeted for teachers' salaries is not equal to or greater than the amount to be included in the Foundation Program for a district for teachers' salaries as determined under KRS 157.390. No working budget or salary schedule shall be approved in which the average salary paid any rank of teacher is not at least equivalent to the allotment for that rank and in which any teacher is paid less than ninety per cent of the Foundation Program allotment for that rank.

The Superintendent of Public Instruction shall not allot to any school district more basic classroom units than the number of teachers employed by that school district for basic classroom units. No basic classroom units shall be allotted which increase in 1958-59 or 1959-60 the differential between the pupil-teacher ratio of the secondary grades (9-12) and the elementary grades (1-8) in 1957-58. No basic classroom units shall be approved which provide in a given building or school a lower pupil-teacher ratio than twenty-seven in average daily attendance to one or the pupil-teacher ratio which obtained in 1957-58, whichever is lower.

The Superintendent of Public Instruction shall allot classroom units for superintendents, principals, their certified assistants and special instructional personnel as provided in KRS 157.360, subsection 6, only for personnel who are qualified for their respective positions under provisions of law and regulations of the State Board of Education and who maintain programs approved under regulations of the State Board of Education.

The number of units allotted by the Superintendent of Public Instruction for vocational education and the education of exceptional children shall not exceed the following:

| | *1958-59* | *1959-60* |
|---|---|---|
| Vocational Agriculture | 260 | 265 |
| Vocational Home Economics | 375 | 386 |
| Trades and Industries | 70 | 75 |
| Distributive Occupations | 20 | 25 |
| Exceptional Children | 158 | 180 |

The Superintendent of Public Instruction shall not allot a full classroom unit for any one-teacher school with fewer than 25 pupils in average daily attendance unless it has been determined on the basis of a survey that no facilities are available to which these pupils could be transported under regulations of the State Board of Education and no full classroom units shall be allotted for any one-teacher school which has fewer than 12 pupils in average daily attendance.

Facilities that are used to house school children shall be approved by the Superintendent of Public Instruction under KRS 162.060 and 162.160. No alterations or additions of old buildings shall be made without prior approval of the Superintendent of Public Instruction. No space shall be rented or purchased and converted to classroom use without prior approval of the Superintendent of Public Instruction. The State Board of Education may adopt regulations for the approval on an annual basis of temporary facilities for the housing of school children but these regulations shall not permit the division of any present room by partitions of nonstructural material. No classroom units shall be allotted for a second teacher in the same classroom. No facilities shall be approved for classroom use which are detrimental to the health of or dangerous to the safety of school children.

If a school district operates any school or grade of a school for a term of less than nine scholastic months or for a school day of less than the minimum required by KRS 158.060, the average daily attendance of such school shall be reduced proportionately by the Superintendent of Public Instruction in determining the allotment of classroom units provided for under KRS 157.360, subsection 2, except as provided for by regulations of the State Board of Education.

If at the time of the tentative allotment of school funds under KRS 157.310 through 157.440, it shall be determined that insufficient revenue is available to finance in full the Foundation Program including a provision that no district receive less than $80 per child in average daily attendance and no district receive less total state aid than it received from the Per Capita Fund in 1955-56, the Superintendent of Public Instruction shall not allot any classroom units under KRS 157.360, subsection 3. So much of the public school foundation program fund, which would not be distributed during 1958-59 due to the failure of one or more participating districts to meet the full requirements, shall be held in account for distribution the following year among districts which meet requirements for participation.

Beginning August 1 of each year and on the first of each month thereafter for seven successive months, one-twelfth of each district's share of the foundation program fund less capital outlay shall be distributed. On or before March 1 of each year the Superintendent of Public Instruction shall determine the exact amount of the public school foundation program fund to which each district is entitled, and the remainder of the amount due each district for the year less capital outlay shall be distributed in four equal installments beginning March 15 and for three successive months thereafter. Capital outlay allotments may be made twice a year.

C-1. *School District Payments in Lieu of Taxes.* For payment to school districts which receive federal grants in lieu of taxes contingent upon the revision of KRS 157.380 by the 1958 General Assembly.

| | |
|---|---|
| 1958-59 | $193,200 |
| 1959-60 | $196,200 |

D. *Free Textbooks.* For the purchase of textbooks as provided for in KRS 157.100 and 157.190.

| | |
|---|---|
| 1958-59 | $1,275,000 |
| 1959-60 | $1,275,000 |

E. *Vocational Education-Adult Special Programs*

| | |
|---|---|
| 1958-59 | $409,090 |
| 1959-60 | $407,995 |

To be expended in accordance with regulations of the State Board of Education.

F. *Out-of-District Children*

| | |
|---|---|
| 1958-59 | $30,000 |
| 1959-60 | $30,000 |

G. *Kentucky School for the Blind*

| | |
|---|---|
| 1958-59 | $227,815 |
| 1959-60 | $230,410 |

H. *Mayo State Vocational School*

| | |
|---|---|
| 1958-59 | $199,180 |
| 1959-60 | $208,015 |

I. *Northern Kentucky Vocational School*

| | |
|---|---|
| 1958-59 | $64,785 |
| 1959-60 | $66,730 |

J. *West Kentucky Vocational School*

| | |
|---|---|
| 1958-59 | $120,775 |
| 1959-60 | $128,300 |

K. *The Division of Rehabilitation Services*

| | |
|---|---|
| 1958-59 | $250,000 |
| 1959-60 | $250,000 |

Any unexpended balance at the end of the first fiscal year of the biennium not to exceed $10,000 shall be carried over to the second year.

L. *Kentucky Industries for the Blind*
1958-59 ---------------------------------- $25,385
1959-60 ---------------------------------- $25,385

TOTAL–DEPARTMENT OF EDUCATION
1958-59 ---------------------------------- $63,728,360
1959-60 ---------------------------------- $66,128,470

## 37. COUNCIL ON PUBLIC HIGHER EDUCATION

A. *Council on Public Higher Education – Administration.* To be expended only for the salaries and expenses of a full-time staff to administer the functions of the Council including administration of the Veterinary Medicine Scholarship Program and the Medical Education Program.
1958-59 ---------------------------------- $16,000
1959-60 ---------------------------------- $16,500

B. *Southern Regional Education Board.* For participation in the activities of the Southern Regional Education Board including the Mental Health Council and the Veterinary Medicine Program.
1958-59 ---------------------------------- $97,000
1959-60 ---------------------------------- $97,000

C. *Medical Education Program*
1958-59 ---------------------------------- $500,000
1959-60 ---------------------------------- $500,000

TOTAL–COUNCIL ON PUBLIC HIGHER EDUCATION
1958-59 ---------------------------------- $613,000
1959-60 ---------------------------------- $613,500

## 38. UNIVERSITY OF KENTUCKY

A. *Division of Colleges*
1958-59 ---------------------------------- $5,606,000
1959-60 ---------------------------------- $6,116,600

B. *Interest on Land Grant Bonds*
1958-59 ---------------------------------- $8,700
1959-60 ---------------------------------- $8,700

C. *Agricultural Experiment Station*
1958-59 ---------------------------------- $796,000
1959-60 ---------------------------------- $827,000

D. *Agricultural Extension.* For expenses of Agricultural Extension, and participation under the Hope-Flannigan Act (Agricultural Extension).
1958-59 ---------------------------------- $931,000
1959-60 ---------------------------------- $972,000

E. *Medical Center*

| | |
|---|---|
| 1958-59 | $438,400 |
| 1959-60 | $978,500 |

F. *Water Investigations*

| | |
|---|---|
| 1958-59 | $102,200 |
| 1959-60 | $102,200 |

G. *Topographic Mapping*

| | |
|---|---|
| 1958-59 | $12,000 |
| 1959-60 | $16,000 |

H. *Minerals Investigations*

| | |
|---|---|
| 1958-59 | $44,100 |
| 1959-60 | $44,100 |

I. *East Kentucky Mineral and Water Survey*

| | |
|---|---|
| 1958-59 | $25,000 |
| 1959-60 | $25,000 |

TOTAL–UNIVERSITY OF KENTUCKY

| | |
|---|---|
| 1958-59 | $7,963,400 |
| 1959-60 | $9,090,100 |

### 39. EASTERN STATE COLLEGE

A. *Eastern State College*

| | |
|---|---|
| 1958-59 | $1,131,980 |
| 1959-60 | $1,255,000 |

### 40. MOREHEAD STATE COLLEGE

A. *Morehead State College*

| | |
|---|---|
| 1958-59 | $879,600 |
| 1959-60 | $983,420 |

### 41. MURRAY STATE COLLEGE

A. *Murray State College*

| | |
|---|---|
| 1958-59 | $1,046,210 |
| 1959-60 | $1,156,125 |

### 42. WESTERN STATE COLLEGE

A. *Western State College*

| | |
|---|---|
| 1958-59 | $1,081,720 |
| 1959-60 | $1,175,590 |

### 43. KENTUCKY STATE COLLEGE

A. *Kentucky State College*

| | |
|---|---|
| 1958-59 | $583,580 |
| 1959-60 | $629,060 |

### 44. TEACHERS' RETIREMENT SYSTEM

A. *Teachers' Retirement System.* For administering and complying with the obligations of the State under the Teachers' Retirement Act, namely, KRS 161.220 to 161.710.

| | |
|---|---|
| 1958-59 | $4,467,200 |
| 1959-60 | $4,643,800 |

### 45. SCHOOL FOR THE DEAF

A. *School for the Deaf*

| | |
|---|---|
| 1958-59 | $397,700 |
| 1959-60 | $402,500 |

### 46. LINCOLN INSTITUTE

A. *Lincoln Institute*

| | |
|---|---|
| 1958-59 | $131,810 |
| 1959-60 | $137,395 |

TOTAL – III. EDUCATION

| | |
|---|---|
| 1958-59 | $82,024,560 |
| 1959-60 | $86,214,960 |

## IV. AGRICULTURE AND CONSERVATION

### 47. DEPARTMENT OF AGRICULTURE

A. *General Operations*

| | |
|---|---|
| 1958-59 | $429,620 |
| 1959-60 | $431,850 |

B. *Livestock Sanitation and Disease Control*

| | |
|---|---|
| 1958-59 | $400,000 |
| 1959-60 | $400,000 |

C. *Contingency Appropriation*

| | |
|---|---|
| 1958-59 | $200,000 |
| 1959-60 | $200,000 |

To be used for livestock sanitation and disease control, contingent upon the expenditure by the federal government of an amount in excess of $400,000 in Kentucky each year of the biennium for this program. To be allotted according to the provisions of Chapter 45 of the Kentucky Revised Statutes except that allotments shall be made by the Commissioner of Finance in amounts comparable to federal government expenditures in Kentucky in each year of the biennium for this program.

TOTAL – DEPARTMENT OF AGRICULTURE

| | |
|---|---|
| 1958-59 | $1,029,620 |
| 1959-60 | $1,031,850 |

## 48. STATE FAIR BOARD

A. *State Fair Premiums*

| | |
|---|---|
| 1958-59 | $125,000 |
| 1959-60 | $125,000 |

B. *State Fair Exposition Center Debt Retirement Deficit*

| | |
|---|---|
| 1958-59 | $80,000 |

TOTAL – STATE FAIR BOARD

| | |
|---|---|
| 1958-59 | $205,000 |
| 1959-60 | $125,000 |

## 49. DEPARTMENT OF CONSERVATION

A. *Office of the Commissioner*

| | |
|---|---|
| 1958-59 | $119,100 |
| 1959-60 | $119,300 |

B. *Division of Forestry*

| | |
|---|---|
| 1958-59 | $458,600 |
| 1959-60 | $458,900 |

C. *Division of Parks*

| | |
|---|---|
| 1958-59 | $275,000 |
| 1959-60 | $275,000 |

D. *Division of Soil and Water Resources*

| | |
|---|---|
| 1958-59 | $104,400 |
| 1959-60 | $104,800 |

E. *Division of Flood Control and Water Usage*

| | |
|---|---|
| 1958-59 | $113,600 |
| 1959-60 | $113,900 |

F. *Ohio River Valley Water Sanitation Commission*

| | |
|---|---|
| 1958-59 | $27,560 |
| 1959-60 | $27,560 |

TOTAL – DEPARTMENT OF CONSERVATION

| | |
|---|---|
| 1958-59 | $1,198,260 |
| 1959-60 | $1,199,460 |

## 50. BREAKS INTERSTATE PARK COMMISSION

A. *Breaks Interstate Park Commission.* For construction, maintenance and operation of Breaks Interstate Park.

| | |
|---|---|
| 1958-59 | $50,000 |
| 1959-60 | $50,000 |

TOTAL – IV. AGRICULTURE AND CONSERVATION

| | |
|---|---|
| 1958-59 | $2,382,880 |
| 1959-60 | $2,306,310 |

## V. OTHER

### 51. DEPARTMENT OF FINANCE

A. *Capital Construction.* For expenditure in accordance with the provisions of Chapter 56 of the Kentucky Revised Statutes. Any unencumbered balance of this appropriation and of prior capital construction appropriations including balances of appropriations of the State Property and Buildings Commission which were transferred to the Department of Finance by Chapter 56 of the Kentucky Revised Statutes and which remain on June 30, 1958, may be expended thereafter and shall not lapse but shall be carried forward until expended. All monies transferred to the Department of Finance for capital construction from other appropriations in accordance with KRS 56.510 shall not lapse but shall be carried forward until expended. This appropriation shall include $12,000,000 in 1958-59 for the purpose of constructing buildings for the medical school at the University of Kentucky. This appropriation shall include $450,000 for the purpose of developing and improving state parks.

| | |
|---|---|
| 1958-59 | $17,568,500 |
| 1959-60 | $ 2,425,000 |

### 52. KENTUCKY COMMISSION ON ALCOHOLISM

A. *Kentucky Commission on Alcoholism*

| | |
|---|---|
| 1958-59 | $25,000 |
| 1959-60 | $25,000 |

### 53. INDIGENT MEDICAL AND HEALTH PROGRAM

A. *Indigent Medical and Health Program.* To be expended in a program of providing medical care to indigent citizens of the Commonwealth of Kentucky, contingent upon passage by the 1958 General Assembly, enabling legislation creating a program of medical care to indigent citizens.

| | |
|---|---|
| 1958-59 | $ 75,000 |
| 1959-60 | $125,000 |

TOTAL – V. OTHER

| | |
|---|---|
| 1958-59 | $17,668,500 |
| 1959-60 | $ 2,575,000 |

GRAND TOTAL

| | |
|---|---|
| 1958-59 | $148,854,285 |
| 1959-60 | $138,861,475 |

## PART TWO

## STATE ROAD FUND

There is established for the purpose of paying all costs of operation and maintenance of the Department of Highways and for carrying on its activities and functions, a State Road Fund which shall consist of all the revenue realized from fees, taxes and license fees levied for state road purposes now authorized by law, and any additional or other revenues, grants or funds, including any amount which may be received from Federal aid or any other source pursuant to the provisions of KRS 177.030, made available for the construction or reconstruction of public roads or for any other of the activities administered by the Department of Highways. Such receipts and revenues, together with any balance in the existing State Road Fund as of June 30, 1958, shall constitute the State Road Fund for the fiscal years 1958-59 and 1959-60. There is appropriated from the State Road Fund the following amounts for the following departments, agencies, and subdivisions of the State Government, for the following purposes:

### I. HIGHWAY DEPARTMENT GENERALLY

### 1. DEPARTMENT OF HIGHWAYS

A. *Department of Highways.* For use by the Department in activities, functions, and duties performed by it as prescribed by law, all monies received and placed to the credit of the State Road Fund, not otherwise appropriated in this or any other Act.

### 2. RURAL HIGHWAYS

A. *Division of Rural Highways.* For improvements, construction, reconstruction and maintenance of county roads and bridges, which have not been accepted by the Department of Highways for maintenance, the sum of Five Million Dollars ($5,000,000) for each of the fiscal years 1958-59 and 1959-60. This appropriation is to be expended in accordance with the provisions of KRS 179.410 to 179.430. Not more than six per cent (6%) of this appropriation shall be used for administration.

B. *Secondary and Rural Roads.* For the construction, reconstruction, and maintenance of secondary and rural roads, two-sevenths, of all revenue received under the provisions of KRS 138.320. This appropriation is in addition to the amount appropriated under Section I, Subsection 2, Paragraph A, of Part Two of the Appropriation Act.

### II. APPROPRIATIONS TO DEPARTMENTS AND AGENCIES OTHER THAN HIGHWAYS

### 3. DEPARTMENT OF THE TREASURY

A. *Department of the Treasury.* For expenses pertaining to treasury administration for the Department of Highways.

| | |
|---|---|
| 1958-59 | $58,940 |
| 1959-60 | $57,715 |

### 4. DEPARTMENT OF FINANCE

A. *Department of Finance.* For expenses pertaining to financial administration for the Department of Highways.

| | |
|---|---|
| 1958-59 | $196,580 |
| 1959-60 | $197,550 |

B. *Division of Services.* For expenses of operation of buildings for the Department of Highways.

| | |
|---|---|
| 1958-59 | $110,590 |
| 1959-60 | $111,300 |

### 5. DEPARTMENT OF PERSONNEL

A. *Department of Personnel.* For expenses pertaining to personnel administration for the Department of Highways.

| | |
|---|---|
| 1958-59 | $71,565 |
| 1959-60 | $72,100 |

### 6. DEPARTMENT OF REVENUE

A. *Department of Revenue.* For administering and enforcing the laws pertaining to the gasoline, motor fuels and any other taxes comprising the State Road Fund, and administering and enforcing the laws relating to motor vehicle registration and other laws relating to motor vehicles and highways.

| | |
|---|---|
| 1958-59 | $1,059,300 |
| 1959-60 | $1,074,700 |

### 7. DEPARTMENT OF PUBLIC SAFETY

A. *General Operations.* To be used for the Office of the Commissioner, Division of State Police and Division of Accident Control for expenses pertaining to the enforcement of laws relating to highway use and safety.

| | |
|---|---|
| 1958-59 | $4,123,835 |
| 1959-60 | $4,240,580 |

B. *Division of Operator Responsibility.* For expenses pertaining to the enforcement of laws relating to motor vehicle operators responsibility.

| | |
|---|---|
| 1958-59 | $151,280 |
| 1959-60 | $153,810 |

### 8. UNIVERSITY OF KENTUCKY

For expenses pertaining to the acquisition of data used in highway planning and construction.

A. *Topographic Mapping Program*

| | |
|---|---|
| 1958-59 | $12,000 |
| 1959-60 | $16,000 |

B. *Water Investigations*

| | |
|---|---|
| 1958-59 | $51,100 |
| 1959-60 | $51,100 |

### 9. DEPARTMENT OF MOTOR TRANSPORTATION

A. *Department of Motor Transportation*

| | |
|---|---|
| 1958-59 | $457,485 |
| 1959-60 | $460,495 |

### 10. DEPARTMENT OF PUBLIC RELATIONS

A. *Department of Public Relations.* For expenses incident to the preparation, publication and distribution of road maps, booklets, photographs, advertisements and other activities intended to advertise and publicize Kentucky highways and highway conditions, tourist, scenic and travel attractions and places of interest to motorists.

| | |
|---|---|
| 1958-59 | $250,000 |
| 1959-60 | $250,000 |

TOTAL – APPROPRIATIONS TO DEPARTMENTS AND AGENCIES OTHER THAN HIGHWAYS

| | |
|---|---|
| 1958-59 | $6,542,675 |
| 1959-60 | $6,685,350 |

### III. ADMINISTRATION AND EFFECT

All funds appropriated to the Department of Highways by Section I of Part Two of this Act (Highway Department Generally) shall be allocated equitably by the Commissioner of Highways, with the approval of the Commissioner of Finance, between the various activities and functions of the Department of Highways.

The appropriations made by this Act are subject to the provisions of Chapters 12, 42, and 45 of the Kentucky Revised Statutes. Nothing in this Act shall be construed to repeal any appropriation for the fiscal year to the State Road Fund ending June 30, 1958.

## PART THREE

## REVOLVING, TRUST AND AGENCY FUNDS

There is appropriated to the various boards, commissions, institutions, agencies and/or subdivisions of the State Government only as are listed herein for the fiscal year ending June 30, 1959, and for the fiscal year ending June 30, 1960, all of the fees (which include fees for board and room, athletics, student activities) and rentals, admittances, sales, licenses collected by law, contributions, gifts, subventions, federal grants and other federal receipts and other miscellaneous receipts produced or received by any of the following agencies of the State Government, except as otherwise specifically provided, for the use and benefit of each of the below-named agencies of the State Government for the purposes for which each fund is authorized. Receipts which are received by each of the respective agencies of the State Government listed herein shall be placed to the credit of a Revolving or Trust and Agency Fund out of which shall be established separate Revolving or Trust and Agency Fund Accounts for the use and benefit of these agencies of the State Government for purposes for which each fund is authorized.

In the event receipts received and credited to any Revolving or Trust and Agency Fund Account during fiscal year 1958-59 or fiscal year 1959-60 and any balance forwarded to the credit of any such account from the previous fiscal year exceed the appropriation made by specific sum to said account in this Part of this Appropriation Act, the excess is appropriated to the credit of said account for the fiscal year in which the excess occurs; provided, however, that said excess shall become available for expenditure for the purpose of the account during said year only with the authorization of the Commissioner of Finance and approval of the Governor.

Except as herein otherwise provided, the appropriate agency may requisition for expenditure from the Revolving or Trust and Agency Fund Account, through the Department of Finance, during the fiscal year ending June 30, 1959, and during the fiscal year ending June 30, 1960, all receipts placed to the credit of the Revolving or Trust and Agency Fund for such year, out of which has been established a revolving or Trust and Agency Fund Account for each separate agency during such fiscal year, plus any balance which said agency may have had forwarded from the preceding year on or before September 30, of the then current fiscal year, by the Department of Finance.

## I. GENERAL GOVERNMENT

### 1. LEGISLATIVE RESEARCH COMMISSION

A. *Statute Revision—Administrative Regulations*

B. *Statute Revision Commission—Printing Revolving Fund.* To be used for the printing and the distribution costs of the Kentucky Revised Statutes, Notes and Annotations to the Kentucky Revised Statutes, and supplements to these publications. Reimbursement shall be made to this account from sales of these publications.

### 2. JUDICIARY

A. *Board of Bar Examiners*

| | |
|---|---|
| 1958-59 | $10,500 |
| 1959-60 | $10,500 |

### 3. AUDITOR OF PUBLIC ACCOUNTS

A. *Auditor of Public Accounts*

| | |
|---|---|
| 1958-59 | $27,800 |
| 1959-60 | $27,800 |

### 4. DEPARTMENT OF FINANCE

A. *Paper Revolving Fund.* The balance in the Paper Revolving Fund and all receipts credited to the Fund during the 1958-59 fiscal year and during the 1959-60 fiscal year are appropriated for use during that period.

B. *Division of Services Revolving Fund.* To be used to purchase and provide stamps and postage, supplies and equipment for the various budget units of State Government. Reimbursement shall be made to this account by the various budget units for materials, supplies and utility services furnished and services rendered. Any funds to the credit of this account shall be available for expenditure for any of the purposes specified herein but such accounting practices shall be maintained by the division as will accurately reflect the financial condition of the various functions being performed with the funds in the account. Any unexpended balance remaining at the end of the fiscal year 1958-59 shall not lapse, but shall be available for expenditure during the following fiscal year.

C. *Central Stores Revolving Fund.* Any funds to the credit of the Central Stores Revolving Fund shall be available for purchase of supplies and services. Reimbursements shall be made to this account by the budget unit for supplies and services used. Any unexpended balance remaining at the end of fiscal year 1958-59 shall not lapse but shall be available for expenditure during the following fiscal year.

D. *Capital Construction.* All real estate rentals, sales and other receipts including all such receipts collected during the fiscal years ending June 30, 1957, and June 30, 1958, pursuant to the provisions of Chapter 56 of the Kentucky Revised Statutes.

### 5. DEPARTMENT OF AERONAUTICS

A. *Office of the Commissioner*

| | |
|---|---|
| 1958-59 | $10,099 |
| 1959-60 | $ 2,300 |

B. *Airport Development*

### 6. DEPARTMENT OF PUBLIC SAFETY

A. *Division of State Police*

| | |
|---|---|
| 1958-59 | $164,920 |
| 1959-60 | $ 96,500 |

### 7. DEPARTMENT OF ECONOMIC DEVELOPMENT

A. *General Operations*

| | |
|---|---|
| 1958-59 | $18,300 |
| 1959-60 | $27,000 |

B. *Planning and Zoning Division*

| | |
|---|---|
| 1958-59 | $112,180 |
| 1959-60 | $112,500 |

C. *Capital City Metropolitan Plan*

| | |
|---|---|
| 1958-59 | $28,970 |
| 1959-60 | $ 3,245 |

### 8. DEPARTMENT OF BUSINESS REGULATION

A. *Board of Accountancy*
B. *Board of Psychology*
C. *Board of Examiners and Registration of Architects*
D. *Board of Barber and Beautician Examiners*
E. *Board of Chiropractic Examiners*
F. *Board of Dental Examiners*
G. *Board of Embalmers and Funeral Directors*
H. *Board of Pharmacy*
I. *Board of Prophylactic Enforcement*
J. *Board of Nursing Education and Nurse Registration*
K. *Board of Veterinary Examiners*
L. *Board of Registration for Professional Engineers*
M. *Kentucky Real Estate Commission*
N. *Board of Optometric Examiners*
O. *Board of Chiropody*
P. *Board of Ophthalmic Dispensers*

### 9. DEPARTMENT OF INDUSTRIAL RELATIONS

A. *Department of Industrial Relations – Workmen's Compensapensation Board*

| | |
|---|---|
| 1958-59 | $247,735 |
| 1959-60 | $251,120 |

### 10. DEPARTMENT OF MINES AND MINERALS

A. *Department of Mines and Minerals*

| | |
|---|---|
| 1958-59 | $77,200 |
| 1959-60 | $86,400 |

### 11. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

A. *Confiscation Expense*

| | |
|---|---|
| 1958-59 | $5,000 |
| 1959-60 | $5,000 |

### 12. DEPARTMENT OF BANKING

A. *Department of Banking*

| | |
|---|---|
| 1958-59 | $166,760 |
| 1959-60 | $167,980 |

B. *Division of Securities*

| | |
|---|---|
| 1958-59 | $11,420 |
| 1959-60 | $11,420 |

## 13. COUNTY FEES

A. *Jefferson County Master Commissioner*

B. *Jefferson County Receiver*

C. *Jefferson County Fees.* For paying various officials of Jefferson County seventy-five per cent (75%) of the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance, and to pay to the Fiscal Court of said County twenty-five per cent (25%) of said fees as may be required by KRS 64.350.

D. *Kenton County Fees.* For paying various officials of Kenton County seventy-five per cent (75%) of the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance, and to pay to the Fiscal Court of said County twenty-five per cent (25%) of said fees as may be required by KRS 64.350.

E. *Fayette County Fees.* For paying various officials of Fayette County seventy-five per cent (75%) of the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance, and to pay to the Fiscal Court of said County twenty-five per cent (25%) of said fees as may be required by KRS 64.350.

F. *Campbell County Fees.* For paying various officials of Campbell County seventy-five per cent (75%) of the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance and to pay to the Fiscal Court of said County twenty-five per cent (25%) of said fees as may be required by KRS 64.350.

G. *Pike County Fees.* For paying various officials of Pike County seventy-five per cent (75%) of the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance, and to pay to the Fiscal Court of said County twenty-five per cent (25%) of said fees as may be required by KRS 64.350.

## 14. TRUCK LICENSES–COUNTY SHARE

A. *Truck Licenses–County Share.* There shall be credited to this fund for the purpose of distribution to counties such portion of truck licenses as is provided by law, at such times as the Department of Finance may order.

### 15. DEPARTMENT OF INSURANCE

Notwithstanding any provisions of KRS 136.360, 234.160, 228.030, and 304.463 to the contrary, the following receipts only are authorized to be placed to the credit of the Trust and Agency Fund and are authorized for expenditure out of the Trust and Agency Fund. All other receipts collected during the 1958-60 biennium shall be placed to the credit of the General Expenditure Fund.

A. *Custodian of Securities.* All sums paid for expenses under the provisions of KRS 304.503.

B. *Insurance Examiners Expense.* All fees paid pursuant to the provisions of KRS 304.503. Notwithstanding the provisions of KRS 304.035 to the contrary, any amount unexpended at the end of the 1957-58 fiscal year and each fiscal year thereafter in excess of $10,000 shall lapse to the General Expenditure Fund.

C. *State Fire and Tornado Insurance Fund.* All money remaining in the Fund as of June 30, 1958, and all money placed to the credit of the Fund during the 1958-60 biennium, except that notwithstanding the provision of KRS 56.150 to the contrary, no funds may be used for expenses of administration.

### 16. KENTUCKY HISTORICAL SOCIETY

A. *Kentucky Historical Society*

| | |
|---|---|
| 1958-59 | $12,235 |
| 1959-60 | $10,460 |

### 17. LIBRARY EXTENSION DIVISION

A. *Library Extension Division*

| | |
|---|---|
| 1958-59 | $220,015 |
| 1959-60 | $220,015 |

### 18. PUBLIC SERVICE COMMISSION

A. *Public Service Commission*

| | |
|---|---|
| 1958-59 | $246,550 |
| 1959-60 | $248,820 |

### 19. DEPARTMENT OF PUBLIC RELATIONS

A. *Department of Public Relations*

| | |
|---|---|
| 1958-59 | $10,000 |
| 1959-60 | $10,000 |

## II. HEALTH AND WELFARE

### 1. DEPARTMENT OF WELFARE

A. *Central Office*

B. *Kentucky Training Home*

| | |
|---|---|
| 1958-59 | $25,000 |
| 1959-60 | $25,000 |

C. *Penal Institutions*

| | |
|---|---|
| 1958-59 | $172,000 |
| 1959-60 | $158,000 |

D. *Children's Services*

| | |
|---|---|
| 1958-59 | $46,900 |
| 1959-60 | $37,900 |

E. *Prison Industries*

| | |
|---|---|
| 1958-59 | $829,700 |
| 1959-60 | $934,000 |

### 2. DEPARTMENT OF ECONOMIC SECURITY

A. *Department of Economic Security*

B. *Kentucky Employees Retirement System*

| | |
|---|---|
| 1958-59 | $57,000 |
| 1959-60 | $57,500 |

### 3. DEPARTMENT OF HEALTH

A. *General Operations*

| | |
|---|---|
| 1958-59 | $1,088,500 |
| 1959-60 | $1,038,500 |

B. *County Health*

| | |
|---|---|
| 1958-59 | $245,400 |
| 1959-60 | $245,400 |

C. *Water Pollution Control Commission*

| | |
|---|---|
| 1958-59 | $54,900 |
| 1959-60 | $54,900 |

### 4. KENTUCKY CRIPPLED CHILDREN COMMISSION

A. *Kentucky Crippled Children Commission*

### 5. STATE TUBERCULOSIS HOSPITAL COMMISSION

A. *State Tuberculosis Hospital Commission*

| | |
|---|---|
| 1958-59 | $195,285 |
| 1959-60 | $194,550 |

### 6. DEPARTMENT OF MENTAL HEALTH

A. *Department of Mental Health*

| | |
|---|---|
| 1958-59 | $708,300 |
| 1959-60 | $643,300 |

## III. EDUCATION

### 1. DEPARTMENT OF EDUCATION

A. *General Operations*

| | |
|---|---|
| 1958-59 | $143,885 |
| 1959-60 | $122,720 |

B. *Division of Property Utilization (Surplus Property)*

| | |
|---|---|
| 1958-59 | $250,080 |
| 1959-60 | $251,780 |

C. *Division of Education for Veterans (Veterans' Approval Agency)*

| | |
|---|---|
| 1958-59 | $50,230 |
| 1959-60 | $50,655 |

D. *School Foundation Program*

| | |
|---|---|
| 1958-59 | $583,600 |
| 1959-60 | $583,600 |

E. *School Lunch Program*

| | |
|---|---|
| 1958-59 | Amount Received |
| 1959-60 | Amount Received |

F. *School Milk Program*

| | |
|---|---|
| 1958-59 | Amount Received |
| 1959-60 | Amount Received |

G. *Vocational Education—Adult—Special*

| | |
|---|---|
| 1958-59 | $689,565 |
| 1959-60 | $674,470 |

H. *Vocational Education—Veterans' Program*

| | |
|---|---|
| 1958-59 | $203,540 |
| 1959-60 | $131,570 |

I. *Jeannes Fund*

| | |
|---|---|
| 1958-59 | $620 |
| 1959-60 | $620 |

J. *Mayo State Vocational School*

| | |
|---|---|
| 1958-59 | $118,780 |
| 1959-60 | $112,400 |

K. *Northern Kentucky Vocational School*

| | |
|---|---|
| 1958-59 | $15,335 |
| 1959-60 | $14,000 |

L. *West Kentucky Vocational School*

| | |
|---|---|
| 1958-59 | $57,825 |
| 1959-60 | $52,700 |

M. *Division of Rehabilitation Services*

| | |
|---|---|
| 1958-59 | $492,680 |
| 1959-60 | $543,285 |

N. *Kentucky Industries for the Blind Revolving Fund.* To be used to purchase and provide materials to be used in producing items at the Kentucky Industries for the Blind. Reimbursement shall be made to this fund from the sale of the completed products. Any unexpended balance remaining at the end of the 1958-59 fiscal year shall not lapse but shall be available for expenditure during any following fiscal year.

O. *Business Enterprise Program*

| | |
|---|---|
| 1958-59 | $8,775 |
| 1959-60 | $9,135 |

P. *OASI Disability Determination Program*

### 2. UNIVERSITY OF KENTUCKY

A. *University of Kentucky*

| | |
|---|---|
| 1958-59 | $5,917,100 |
| 1959-60 | $6,109,500 |

B. *Medical Center*

| | |
|---|---|
| 1959-60 | $20,000 |

### 3. EASTERN STATE COLLEGE

A. *Eastern State College*

| | |
|---|---|
| 1958-59 | $552,220 |
| 1959-60 | $584,800 |

### 4. WESTERN STATE COLLEGE

A. *Western State College*

| | |
|---|---|
| 1958-59 | $545,630 |
| 1959-60 | $576,290 |

### 5. MURRAY STATE COLLEGE

A. *Murray State College*

| | |
|---|---|
| 1958-59 | $685,690 |
| 1959-60 | $722,080 |

### 6. MOREHEAD STATE COLLEGE

A. *Morehead State College*

| | |
|---|---|
| 1958-59 | $504,800 |
| 1959-60 | $519,740 |

### 7. KENTUCKY STATE COLLEGE

A. *Kentucky State College*

| | |
|---|---|
| 1958-59 | $249,950 |
| 1959-60 | $260,170 |

### 8. TEACHERS' RETIREMENT SYSTEM

A. *Teachers' Retirement System*

### 9. LINCOLN INSTITUTE

A. *Lincoln Institute*

| | |
|---|---|
| 1958-59 | $134,515 |
| 1959-60 | $132,000 |

### 10. KENTUCKY SCHOOL FOR THE DEAF

A. *Kentucky School for the Deaf*

| | |
|---|---|
| 1958-59 | $3,500 |
| 1959-60 | $3,500 |

## IV. AGRICULTURE AND CONSERVATION

### 1. DEPARTMENT OF AGRICULTURE

A. *Department of Agriculture*

| | |
|---|---|
| 1958-59 | $85,315 |
| 1959-60 | $85,765 |

B. *Dog Law—Administration and Indemnities and County Share*

### 2. STATE FAIR BOARD

A. *State Fair Board*

### 3. DEPARTMENT OF CONSERVATION

A. *Division of Forestry*

| | |
|---|---|
| 1958-59 | $433,700 |
| 1959-60 | $442,800 |

B. *Division of Parks*

| | |
|---|---|
| 1958-59 | $2,316,500 |
| 1959-60 | $2,325,500 |

C. *Division of Strip Mining and Reclamation*

| | |
|---|---|
| 1958-59 | $65,800 |
| 1959-60 | $67,100 |

D. *Division of Soil and Water Resources*

### 4. DEPARTMENT OF FISH AND WILDLIFE RESOURCES

A. *Department of Fish and Wildlife Resources*

### 5. KENTUCKY NATIONAL PARK COMMISSION

A. *Kentucky Natoinal Park Commission*

## V. OTHER

### 1. KENTUCKY COMMISSION ON ALCOHOLISM

A. *Kentucky Commission on Alcoholism*

## PART FOUR

## GENERAL PROVISION

1. Nothing in this Act shall be construed to repeal any appropriation for the fiscal year ending June 30, 1958, and nothing in this Act is to be construed to amend or alter the provisions of Chapter 42 of the Kentucky Revised Statutes pertaining to the duties and powers of the Commissioner of Finance. All questions that arise in interpreting any appropriation in this Act as to the purpose for which the same may be expended shall be decided by the Commissioner of Finance in accordance with the detailed estimates embodied in the budget report as considered by the General Assembly, and the decision of the Commissioner of Finance shall be final and conclusive.

2. Whereas, the finances of the Commonwealth can not be ascertained at this time, and since the actual needs of each officer, department, board, commission, institution, or subdivision of the State Government can only be anticipated and not finally determined by the Legislature, and since the total amount of revenue accruing to the General Expenditure Fund from which these appropriations are made can only be anticipated through existing laws and those that may hereafter be enacted, it is the purpose and intention of this Act that the expenditures for each fiscal year under Part I in this Act shall not exceed the total revenues anticipated to accrue to the General Expenditure Fund for the same fiscal year. As the conditions can not be fully determined until after the adjournment of the 1958 General Assembly, and as the needs of each officer, department, board, commission, institution, or subdivision of the State Government and the total revenues accruing to the General Fund can not be fully determined at this time, it is the intention and the purpose of this General Assembly that the Commissioner of Finance, with the advice of the Commissioner of Revenue and the approval of the Governor of the Commonwealth, is authorized, empowered and directed to ascertain and determine the needs of each officer, department, board, commission, institution or subdivision of the State Government, and to ascertain the total revenue anticipated to accrue to the General Expenditure Fund of the Commonwealth, and upon the ascertainment and determination of said facts, he, the Commissioner of Finance, in the manner set forth and as provided by general law, is authorized, empowered and directed by the General Assembly to prevent an overdraft or deficit in any fiscal year for which appropriations are herein made, by equitably reducing, according to need, without discrimination, the appropriations herein made in Part I to any officer, department, board, commission, institution, or subdivision of the State Government; provided that the power vested shall not permit any reduction of the appropriation of any officer, department, board, commission, institution, or subdivision of the State Government that will actually impair the necessary constitutional functions of any agency whose operations and functions are determined to be necessary constitutional functions of government.

3. In the event receipts to the General Expenditure Fund from current revenues for the fiscal year 1957-58 exceed One Hundred Thirty Million Dollars ($130,000,000) and for the fiscal year 1958-59 exceed One Hundred Thirty-One Million Dollars ($131,000,000), such excesses are appropriated to the Department of Finance to be used for capital construction in accordance with the provisions of Chapter 56 of the Kentucky Revised Statutes.

4. In enacting this Budget Appropriation Law, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof, as a separate and/or specific appropriation and law, and if any section or any subsection thereof shall be held invalid,

or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

5. All continuing appropriations in existence at the time this Act takes effect are discontinued and repealed by this Act, except as provided by Chapters 12, 42, 45, 56, and 177 of the Kentucky Revised Statutes. All laws and parts of laws in conflict with any of the provisions of the above enactments, to the extent of such conflict, are repealed.

Senator Clay stated he had a minority report on **HB 1** to be read by the Clerk, which is as follows:

House Bill No. 1 is reported with the expression of opinion that the same should pass with the following amendment: "Strike all the amendments made to House Bill No. 1, by the House, except House Amendments Nos. 1, 2 and 3."

The President recognized Senator Clay for the purpose of moving its adoption. Senator Clay declined to make said motion. Senator Anggelis rose to a Point of Order and stated that the report filed by Senator Clay was out of order due to his refusal to move its adoption in lieu of majority report. The President ruled that Senator Anggelis' Point of Order was well taken.

### Calendar

**HR 22.** was taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that it be read by title only. Agreed by a majority of the members elected. Ordered placed in Orders of the Day.

### Reference of Bills

The President announced referral of the following bills:

Revenue and Taxation: **SB 111.**

Education: **SB 112.**

Agriculture: **SB 113.**

Banking and Insurance: **SB 114.**

Municipalities: **SB 115, SB 117, SB 119, SB 120.**

Conservation: **SB 116.**

Judiciary: **SB 118.**

Senator Bassett moved adjournment until 1:00 p.m., Tuesday, February 4, 1958. Agreed.

## TUESDAY, FEBRUARY 4, 1958

## TWENTY-THIRD LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Fred T. Moffatt of the First Baptist Chuch of Frankfort.

The roll was called. All members present except Senator Duncan, who was granted leave of absence on motion of Senator McCann.

The reading of the Journal for Monday, February 3, 1958, dispensed with and the same approved on motion of Senator McCann.

### Motions

Senator Bassett moved that when the Senate adjourns today, it adjourn until 1:00 p.m., Thursday, February 6, 1958. Agreed.

Senator Hamilton moved that Gary Sims be made an Honorary Page of the Senate. Agreed.

Senator Mrs. Harry J. Davis moved that Linda Mae Davis, Mary Ann Dawson, James Adair Davis, Vickie Leigh Brown, Mary Fred Crawford, and Carol Ann Malone be made Honorary Pages of the Senate. Agreed.

Senator Van Hoose moved that Dianne McCubbin and Nicky McCubbin be made Honorary Pages of the Senate. Agreed.

Senator Blake moved that Vicke Wells be made an Honorary Page of the Senate. Agreed.

Senator Duffy moved that Albert V. Hamm be made an Honorary Page of the Senate. Agreed.

Senator Hickerson moved that Betty Wayne Winfrey, Hugh M. Spalding, Elaine M. McGuffey, Kathy Schwartzmiller, Susan Greenwell, and Betty Lou Whitlock be made Honorary Pages of the Senate. Agreed.

Senator Kelly moved that Larry E. Botts, Garry Dale Botts, and Bobby Bevins be made Honorary Pages of the Senate. Agreed.

Senator Howell moved that Elizabeth Lynn Wellman, Nora Lou Wellman, Randy Crum, Gregory Crum, Charles Walker Gibson, and Stephen Dale Crow be made Honorary Pages of the Senate. Agreed.

Senator Warinner moved that Stephen Shelby Sawyer be made an Honorary Page of the Senate. Agreed.

Senator Warinner moved that **SR 24** be removed from the Clerk's desk and placed on passage. Agreed.

Senator Warinner submitted a substitute for **SR 24** as follows:

A SENATE RESOLUTION memorializing the Congress of the

United States to enact legislation designed to insure the growers of strawberries a fair market price for their product.

WHEREAS, it appears that overproduction of strawberries has caused a depression of prices in the market;

WHEREAS, it appears that some type of corrective legislation is necessary to prevent the growers of strawberries from resorting to other more profitable crops;

WHEREAS, it appears that such corrective measures should be placed in operation at the earliest possible time;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Congress of the United States is urged to act in the exercise of its board legislative power to correct the condition of price depression presently existing in the strawberry market.

Section 2. That the Congress act in this regard by enacting legislation designed to stabilize the market price of strawberries and insure strawberry growers a fair return on their labor and expenses.

Section 3. That the members of the Congress of the United States representing the Commonwealth of Kentucky are urged to introduce and support legislation to accomplish the foregoing.

Section 4. That copies of this memorial, duly authenticated, be forwarded by the Clerk of the Senate to the President of the United States Senate, the Speaker of the United States House of Representatives, each of the Senators and Representatives from the Commonwealth of Kentucky now serving in the Congress, and to the Secretary of Agriculture of the United States.

Senator Warinner moved the adoption of the substitute offered for **SR 24.** Adopted by voice vote.

Senator Willis offered an amendment to **SR 24** and moved the adoption of said amendment. Adopted by voice vote.

Amend printed copy of **SR 24** on Page 1, section TITLE.

Insert following the word "strawberries" and preceding the word "under", in line 2 of the title, the words "and gooseberries."

Senator Warinner moved the Previous Question on **SR 24** as amended. Agreed.

Senator Fields and Reuscher requested a roll call and it was so ordered.

On roll call, the vote was: Yeas 16—Anggelis, Bassett, Blake, Bonn, Byers, Mrs. J. Harry Davis, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Knuckles, Lucas, Robinson, Van Hoose; nays 18—Blue, Clay, Cornett, C. H. Davis, Duffy, Fields, Francis, Freeman, Kelly, Kidwell, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Ware, Young. **SR 24** did not pass.

### House Message

Announcing passage of **HR 11, HR 13, HR 25, HR 30, HR 23, HB 10, HB 15, HB 16, HB 21, HB 23, HB 42, HB 49, HB 60, HB 67, HB 119.** Ordered that said resolutions and bills be referred.

### Introductions

**SR 36**, by Senator Overbey: A JOINT RESOLUTION authorizing civil action against the Commonwealth of Kentucky and the Department of Highways, or either, in the interest of Andrew Taylor, Cecil Taylor, and T. W. Taylor.

**SR 37**, by Senators Willis and Van Hoose: A JOINT RESOLUTION authorizing civil action against the Commonwealth of Kentucky, Department of Revenue, in the interest of William E. Scent.

**SB 134**, by Senator Byers: AN ACT relating to a Veteran's Bonus and providing a sales tax on alcoholic beverages for payment thereof.

**SB 135**, by Senators C. H. Davis and Clay: AN ACT relating to county liability.

**SB 136**, by Senator C. H. Davis: AN ACT relating to mining regulations.

**SB 137**, by Senator Richmond: AN ACT relating to Chambers of Commerce.

**SB 138**, by Senators Richmond, Melton, Freeman, Francis, and Overbey: AN ACT relating to dairy product marketing.

**SB 139**, by Senators Lucas and Cornett: AN ACT relating to the distribution of revenue from motor truck registration fees.

**SB 140**, by Senator Van Hoose: AN ACT relating to teacher's certificates.

**SB 141**, by Senator Ware: AN ACT relating to taxation of cigarettes.

**SB 142**, by Senator Johnson: AN ACT relating to disposal of dead bodies.

**SB 143**, by Senator Bassett: AN ACT relating to the offense of shoplifting and providing penalties therefor.

**SB 144**, by Senators Robinson, Knuckles, Van Hoose, and Warinner: AN ACT relating to the payment of expenses of certain stenographic reporters.

### Committee Reports

Committee on Ways and Means reported **SB 90** with the expression of opinion that the same should not pass. Committee on Ways and

Means reported **SB 44** without expression of opinion. Committee on Ways and Means reported **SB 85, SB 37** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 85:** AN ACT relating to the computation of time, amending KRS 446.030.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 446.030 of the Kentucky Revised Statutes is amended to read as follows:

(1) In computing any period of time prescribed or allowed by statute, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Sundays or holidays shall be excluded in the computation.

(2) If any proceeding is directed by law to take place, or any act is directed to be done, on a particular day of a month and that day is Sunday, the proceeding shall take place, or the act shall be done, on the next day that is not a legal holiday.

**SB 37:** AN ACT enabling the State Tuberculosis Hospital Commission, on behalf of the Commonwealth of Kentucky, to acquire the title and to assume the operation and maintenance of Tuberculosis Sanitoria from Tuberculosis Sanatorium Districts.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

(1) That any District Board of Trustees of a Sanatorium District, and the Fiscal Court of the County or Counties involved, with the consent and approval of the State Tuberculosis Commission, may convey its District Sanatorium properties to the Commission. Upon the completion of such transfer the Commission shall thereafter assume the maintenance, operation, and administration theretofore performed by the District.

(2) When any such Tuberculosis Santorium District has received a gift, grant, or devise of money or property upon conditions, agreements or understandings from the donor, such conditions, agreements, or understandings shall be assumed and undertaken by the Commission for and on behalf of the Commonwealth.

(3) After the conveyance of the properties of a District to the Commission, and if the Commission or the Commonwealth ceases to use such properties as a Tuberculosis Sanatorium, or in the relief of

suffering and in aid of humanity the properties shall revert to and be conveyed to the District and/or the Fiscal Court of the County.

(4) Such transfer shall not affect the validity of any mortgage or bonds, heretofore executed according to law, which shall constitute an incumbrance upon such property, and the Commission shall arrange for the payment of interest and principal of such mortgage or bonds out of any funds appropriated for that purpose.

Committee on Education reported **SB 108, SB 73, SB 107** with the expression of opinion that same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 108:** AN ACT relating to the Teachers' Retirement System of the State of Kentucky, amending Sections 161.340 and 161.430 of the Kentucky Revised Statutes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 161.340 is amended to read as follows:

The board of trustees shall elect from its membership a chairman and shall by a majority vote of all its members appoint a secretary who is not a member of the board. The secretary shall at the time of appointment be at least thirty-five years of age, a graduate of a standard four-year college, have had at least ten years' experience as a teacher, and be eligible for membership in the retirement system. He shall be paid an adequate salary in accordance with established personnel classifications, which may not exceed the sum of ten thousand dollars per annum. He shall not have held, by appointment or election, an elective officer within the five-year period next preceding the date of appointment. The board shall engage such actuarial, legal, medical and other technical services and such clerical or other services as are required to transact the business of the retirement system. The compensation of all persons engaged by the board and all other expenses of the board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the board approves.

Section 2. KRS 161.430 is amended to read as follows:

(1) The board of trustees shall be the trustee of the funds of the retirement system, and shall have full power and responsibility for the investment and disbursement of the funds. No investment shall be made of the funds except in the following:

(a) Obligations of the United States and obligations for which the faith of the United States is pledged for the payment of the interest and principal;

(b) Obligations of the Commonwealth of Kentucky and obligations of its departments, including revenue bonds;

(c) Obligations of any city of the first, second, third and fourth classes of the Commonwealth of Kentucky which are payable from voted taxes;

(d) School improvement bonds issued in accordance with authority granted under KRS 162.080 to and including KRS 162.100;

(e) School building revenue bonds issued in accordance with authority granted under KRS 162.120 and including KRS 162.300, provided the issuance of such bonds is approved by the State Board of Education;

(f) Revenue bonds issued by educational institutions of the Commonwealth of Kentucky as authorized by KRS 162.340 to and including KRS 162.380;

(g) Bonds issued by corporations organized under the laws of the United States or of any state in the United States, or of the District of Columbia, when such bonds have a rating of the highest or next highest classification made by a nationally known major rating service;

(h) Deposits in banks or trust companies in the Commonwealth of Kentucky organized under the laws of this state, or of the United States, when such deposits are interest bearing at a rate not lower than two per centum per annum, and when such deposits are fully secured by direct obligations of the United States Government or of the Commonwealth of Kentucky, placed in the hands of the State treasurer and approved by the board of trustees.

(2) (a) Not more than twenty-five percent of any one issue may be purchased by the board of trustees as an investment; and not more than five percent of the invested funds of the retirement system may be invested in the obligations of any issuer except in the case of obligations of the United States Government. For the purpose of this subsection revenue bond obligations of the Commonwealth of Kentucky or its departments and agencies shall not be deemed to be obligations of the same obligor if, the revenues pledged are derived from separate projects. No investment may be made in any obligation of any issuer which has been in default on any of its bonds or interest during a period of the last ten years immediately preceding the purchase.

(b) No more than twenty-five percent of the assets of the Retirement System may be invested in all of the foregoing classification of (c), (d), (e) and (f) of subsection (1) of this section; and not more than twenty-five percent of the assets of the retirement system may be invested in corporate bonds of classification (g) of subsection (1) of this section.

(3) No investment or disbursement of the funds shall be made unless authorized by resolution adopted by the board of trustees.

**SB 73:** AN ACT relating to school employes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 161.740 of the Kentucky Revised Statutes is amended to read as follows:

(1) Continuing service status shall be awarded to teachers holding standard or college certificates as defined in KRS 161.720, under the following conditions:

(a) When a teacher is recommended for re-employment after teaching four years in a district, the superintendent shall recommend said teacher for a continuing contract, and, unless the board of education by a four-fifths vote of its full membership rejects a continuing contract for the teacher, a written continuing contract shall be made; if the board of education rejects the continuing contract of the teacher recommended, the superintendent may recommend employment of such teacher, under a limited contract not in excess of two years, but upon subsequent re-employment a written continuing contract shall be made;

(b) When a teacher has attained continuing contract status in one district and transfers to another district, upon the recommendation of the superintendent the board of education may at the time of employment, or at any time within a two-year period, declare any transfer teacher eligible for a written continuing contract and extend to such teacher such contract; if during the two-year period the teacher has not received a written continuing contract and the teacher is recommended for re-employment at the end of the two-year period, the superintendent shall recommend said teacher for a continuing contract and, if re-employed, a written continuing contract shall be issued;

(c) Any teacher who has taught six years or more and is eligible for a continuing contract but has not received such contract shall, if employed for the school year 1957-1958, receive a written continuing contract.

(2) Any teacher or superintendent who has been or may be hereafter inducted into the Armed Forces of this country for service in the present war, shall at the expiration of such service be re-instated in his former position unless such person is physically or mentally incapacitated. Application for re-instatement shall be made to the board of education within a period of sixty days immediately following discharge from the Armed Forces of the country. Re-instatement shall be as of the beginning of the next school year following at least thirty days after the application is received. Vacancies created by military leaves shall be filled by teachers or superintendents employed by the board of education under limited contracts only.

(3) Any teacher or superintendent who resigned for the purpose of accepting employment in defense work during World War II, and who at the time of such resignation would not have been subject to induction under the selective service rules existing prior to December

7, 1941, shall retain teaching seniority, provided he had returned to teaching prior to January 1, 1947.

**SB 107:** AN ACT relating to the Teachers' Retirement System, amending Section 161.520 and 161.660 of the Kentucky Revised Statutes and creating additional sections.

WHEREAS, the basic provisions of the Teachers' Retirement Act were amended affective July 1, 1955, to provide larger contributions under Section 161.540 and larger retirement and disability allowances under Sections 161.620 and 161.660 for members of the Retirement System then in active service; and

WHEREAS, no adequate provision was made for teachers already retired at July 1, 1955, nor for the transition from the lower benefits in effect prior to such date to the more adequate allowances accruing on and after such date under the aforesaid amendments; and

WHEREAS, the cost of living continues to increase and financial relief should be granted in the form of increases in benefits to teachers already retired, as well as to those who will retire during the aforesaid transition period;

NOW, THEREFORE, it is declared to be the policy and intention of the General Assembly to provide an increase in payments to teachers now retired, and to teachers retiring during the next several years, in order to make a transition from the lower allowances previously provided, to the higher level of benefits that eventually will be attained under the amendments effective July 1, 1955.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. A new section of the Kentucky Revised Statutes is created to read as follows:

(1) Beginning July 1 next following the enactment of this Bill, each teacher retired prior to July 1, 1955, and each teacher retired thereafter who has not received service credit subsequent to that date, shall be entitled to an increase in his retirement or disability allowance equal to thirty per cent of such allowance, and each teacher retired subsequent to said date having service credit subsequent thereto, shall be entitled to an increase in his retirement or disability allowance on a scale to be fixed by the Board of Trustees with the advice of the actuary. In fixing said scale the Board of Trustees shall reduce the increase established by this Section by an amount not exceeding ten per cent of the maximum increase for each service credit year earned subsequent to July 1, 1955. Such reduction of the arbitrary increase fixed by this section may be established at less than the aforesaid ten per cent for each service year's credit if the Board determines that the value to the annuitant of the increase in the allowance of each service year subsequent to the aforesaid date is less than the amount of said reduction.

(2) In the event the total annual allowance provided under (1) of this Section is an amount less than the service credit years of the teacher multiplied by twenty-five dollars, then the provision of (1) shall not apply, but instead the annual allowance shall be twenty-five dollars per service credit year.

(3) In the case of teachers retired or retiring under an option as provided in Section 161.630, Kentucky Revised Statutes, the increases provided under (1) and (2) of this Section shall be applied in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries.

(4) Increases in retirement allowances provided under (1), (2) and (3) of this Section shall not apply to allowance accrued by reason of voluntary contributions.

(5) No retroactive payments shall be made under (1), (2) and (3) of this Section prior to the beginning date of such increases.

(6) The increase provided in this Section shall be payable for the life of the annuitant and in the same manner and time as provided in 161.640, Kentucky Revised Statutes.

Section 2. 161.520 of the Kentucky Revised Statutes is amended to read as follows:

(1) Membership in the Retirement System shall be terminated: (a) by retirement for disability or superannuation; (b) by death; (c) by withdrawal; (d) when a teacher who is absent from service withdraws his deposits in the fund; or (e) when a teacher is absent from service three out of six consecutive years, unless the Board of Trustees in accordance with its rules and regulations grants a longer period, not in excess of six years, of absence from active service as a teacher without the loss of his status as a member.

(2) Prior service rights shall be forfeited upon withdrawal, and if the teacher again enters the service, it shall be as a new teacher, except that any teacher who withdraws by claiming his deposits may, before he is absent from service three school years, repay to the System the sums he received from it upon his withdrawal with regular interest and this re-establish his prior service rights.

(3) In case of withdrawal from service prior to eligibility for retirement, the Board of Trustees shall return to the teacher all of his accumulated contributions, but the teacher shall have no claim upon any contributions made by the State with a view to his retirement. If the member is eligible for a retirement allowance provided by 161.600, 161.610 or 161.620, no withdrawal and refund shall be permitted, but in lieu thereof the teacher shall be entitled to the retirement or disability allowance provided by the Retirement System.

(4) Except as provided in subsection (5) hereunder, in case of death prior to retirement the Board of Trustees shall pay to the estate of the deceased member or to his assigns all of his accumulated con-

tributions, with regular interest, but the estate or assigns shall have no claim on any contributions made by the state with a view to the retirement of the teacher.

(5) (a) Upon the death of an active member who has had subsequent service credit for at least six years and who was in service for at least one full fiscal year immediately prior to his death or prior to the beginning of his last illness, or upon the death of a teacher retired for disability, the Board of Trustees shall pay to the estate or assigns of the deceased teacher a refund of his accumulated contributions, provided that, if the deceased teacher is survived by a spouse whose marriage to the deceased teacher was at least one year prior to the teacher's death, an unmarried child or children under eighteen years of age, or a dependent parent or parents, such survivor or survivors in the order named may elect to receive in lieu of the accumulated contributions a survivors benefit described hereinafter in this Section, payable under the conditions specified.

(b) If the survivor is a spouse, the benefit shall be forty dollars per month, or one-half the retirement allowance that the teacher would have received had he been eligible and retired at the date of his death or was receiving as a disabled teacher at the date of death, whichever is larger. If both a spouse and unmarried children under eighteen years of age survive the deceased, the benefits shall be increased by forty dollars per month in the case of one such child, seventy dollars per month in the case of two such children, and ninety dollars per month in the case of three such children, and one hundred dollars per month in the case of four or more such children.

(c) If no spouse survives the deceased member and a child or children survive, the benefits payable to the child or children shall be at the rates specified in (b) above. These benefits shall apply to legally adopted survivors provided the proceedings for adoption were initiated at least one year prior to the death of the member.

(d) If no spouse or children survive the deceased member, a dependent parent or parents aged sixty-five or over shall be entitled to receive a benefit of forty dollars per month for each parent. Dependency of a parent shall be established as of the date of the death of the member and shall be presumed to exist if the parent was receiving at least one-half of his support from the deceased teacher.

(e) The benefit to a child, spouse or dependent parent shall terminate upon the attainment of age eighteen or the marriage of the child, or the re-marriage of the spouse or parent, if such parent was unmarried at the date of the death of the deceased member. The benefit to a spouse or parent shall not be payable to any such beneficiary during the time he is receiving an annuity, pension or allowance in excess of forty dollars per month from a retirement or pension system in the State of Kentucky financed in whole or in part by public contributions, excluding Old Age and Survivors Insurance, or is earning more than eighteen hundred dollars per year from gainful employment.

(f) The Board of Trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating thereto, and may subpoena records and individuals whenever it deems such action necessary.

(g) No payments of benefits shall be made unless the Board of Trustees shall have authorized such payments. The Board shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions and in every case the decision of the Board of Trustees shall be final as to eligibility, dependency or disability, and amounts of benefit payable.

Section 3. 161.660 of the Kentucky Revised Statutes is amended to read as follows:

Any member who has completed ten years or more of accredited service in the public schools, or other covered positions, of the State of Kentucky, five years of which immediately preceded retirement, may retire for disability, and shall be granted a disability allowance to be paid from the funds of the Retirement System. The disability allowance of each member retiring for disability shall be calculated in the same manner as the allowance for a superannuated member, except that the age factor used in determining the annuity shall be the factor for age sixty for disabled members under the age of sixty. The maximum and minimum provision that apply to members retiring for superannuation shall apply to all cases of retirement for disability, except that in no case shall the allowance be less than fifty dollars per month. All members now retired for disability that are under the age of sixty years and are receiving less than this minimum shall be increased to said minimum beginning July 1 next following the date of approval of this Act. Members retired or retiring for disability may elect any of the options under Section 161.630, Kentucky Revised Statutes, upon reaching the age of sixty.

Section 4. A new section of the Kentucky Revised Statutes is created to read as follows:

(1) Upon the death of a retired teacher who at time of death is receiving a retirement or disability allowance, or upon the death of an active member whose survivors can qualify for benefits under Section 2, a death benefit of five hundred dollars shall be paid to his estate or assigns following application to the Board of Trustees, together with acceptable evidence of death and eligibility.

(2) Suit or civil action shall not be required for the collection of the death benefit provided herein, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the death benefit.

Committee on Revenue and Taxation reported **SB 77** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 77:** AN ACT relating to motor vehicles.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 186.010 of the Kentucky Revised Statutes is amended to read as follows:

186.010. In this chapter, unless the context requires otherwise:

(1) "Department" means the Department of Revenue.

"Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license or privilege, for the purpose of vehicular traffic.

(3) "Manufacture" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten new motor vehicles.

(4) "Motor Vehicle" as used in KRS 186.020 to 186.260, includes all vehicles, as defined in paragraph (a) of sub-section (7) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of sub-section (7) of this section, which are self-propelled.

(5) "Operator" means any person in actual control of a motor vehicle upon a highway.

(6) "Owner" means a person who holds the legal title of a vehicle. If a vehicle is the subject of an agreement for the conditional sale or lease, with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.

(7) (a) "Vehicle", as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five miles beyond the city limit of any municipality.

(b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracks, or derives its power from overhead wires.

(8) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operators' licenses.

(9) "Dealer" means any person engaging in the business of buying or selling motor vehicles.

(10) *"Motor-driven cycle" means all vehicles, as defined in paragraph (b) of subsection (7) of this section, which have a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, and which are self-propelled by a motor or engine producing not in excess of five (5) brake horsepower.*

Section 2. Subsection (2) of Section 186.050 of the Kentucky Revised Statutes is amended to read as follows:

(2) The annual registration fee for each motorcycle and *motor-driven* cycle shall be $2.00 and for each side car attachment, $1.00.

Section 3. The introductory clause and subsection (1) of Section 186.440 of the Kentucky Revised Statutes are amended to read as follows:

186.440. An operator's license shall not be granted to:

(1) Any person under the age of 16, *except that an appropriately marked special operator's license shall be granted to any properly qualified person over the age of 14 and under 16 to operate a motor-driven cycle.*

Section 4. *All motor-driven cycles sold in this state must be clearly stenciled or stamped by the manufacturer with the name of the manufacturer, place of manufacture, and horsepower of the cycle.*

Section 5. Section 189.010 of the Kentucky Revised Statutes is amended to read as follows:

189.010. As used in this chapter, unless the context requires otherwise:

(1) "Department" means the Department of Highways.

(2) "Highway" means any public road, street, avenue, alley, or boulevard, bridge, viaduct, or trestle, and the approaches to them.

(3) "Motor truck" means any motor-propelled vehicle designed for carrying freight or merchandise. It shall not include self-propelled vehicles designed primarily for passenger transportation, but equipped with frames, racks or bodies having a load capacity of not exceeding one thousand pounds.

(4) "Operator" means the person in actual physical control of a vehicle.

(5) "Semi-trailer" means a vehicle designed to be attached to, and having its front end supported by, a motor truck or truck tractor, intended for the carrying of freight or merchandise and having a load capacity of over one thousand pounds.

(6) "Semi-trailer truck" means any motor-propelled vehicle designed to draw and to support the front end of a semi-trailer. The semi-trailer and the tractor shall be considered to be one unit.

(7) "Sharp curve" means a curve of not less than thirty degrees.

(8) "State Highway Patrol" means any agency for the enforcement of the highways laws, established pursuant to KRS 12.030, 176.020, and 281.380.

(9) "Steep grade" means a grade of exceeding seven percent.

(10) "Trailer" means any vehicle designed to be drawn by a motor truck or truck-trailer, but supported wholly upon its own wheels, intended for the carriage of freight or merchandise, and having a load capacity of over one thousand pounds.

(11) "Unobstructed highway" means a straight, level, first-class road upon which no other vehicle is passing or attempting to pass, and upon which no other vehicle or pedestrian is approaching in the opposite direction, closer than three hundred yards.

(12) "Vehicle" includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five miles beyond the city limit of any municipality. "Motor vehicle" includes all vehicles as defined above which are propelled otherwise than by muscular power.

(13) *"Motor-driven cycle" means all motor vehicles, as defined in subsection (12) of this section, which have a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, and which are self-propelled by a motor or engine producing not in excess of five (5) brake horsepower.*

Section 6. Subsection (1) of Section 189.040 of the Kentucky Revised Statutes is amended to read as follows:

189.040 (1) Motor vehicles shall have at least two lamps in front, showing white, or tinted other than red, and of sufficient power to reveal clearly substantial objects at least 350 feet ahead. Two-wheeled motorcycles *and motor-driven cycles* need have only one such lamp. On all motor vehicles there shall also be a selective lowermost distribution of light, or composite beam, so aimed that:

(a) When the motor vehicle is not loaded, none of the high intensity portion of the light which is directed to the left of the prolongation of the extreme left side of the vehicle shall, at a distance of twenty-five feet ahead, project higher than a level of ten inches below the level of the center of the lamp from which it comes.

(b) When the motor vehicle is not loaded, none of the high intensity portion of the light which is directed to the right of the prolongation of the extreme left side of the vehicle shall, at a distance of twenty-five feet ahead, project higher than a level of five inches below the center of the lamp from which it comes. It shall reveal objects one hundred feet ahead. Any light projected ahead or sidewise shall be so arranged or deflected that no glaring rays from it or from any reflector shall be at any time more than three and one-half feet above a plane at a distance of seventy-five feet or more ahead of the vehicle. In case of accident or emergency, motor vehicles may display lanterns or other lights of smaller power, but if the lights are insufficient to reveal clearly substantial objects at least seventy-five feet ahead, the vehicles shall not proceed at a rate of speed in excess of twenty miles per hour. No motor vehicle shall be sold unless the light projected by the headlights meets the requirements of this sub-section at the time of sale.

Section 7. Subsection (2) of Section 189.090 of the Kentucky Revised Statutes is amended to read as follows:

(2) Every motor vehicle, other than a motorcycle *or motor-driven cycle,* when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the vehicle. There shall be two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If the two separate means are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brake on at least two wheels.

Section 8. *The Department of Public Safety may, in its discretion, suspend or revoke the special license of any motor-driven cycle operator when such operator has received three or more citations for moving violations of the motor vehicle laws of this State.*

Committee on Revenue and Taxation reported **HB 2** with the expression of opinion that the same should pass.

Senator Ware asked the Clerk to read the Minority Report on **HB 2.**

Senator Ware, seconded by Senator Young, moved the adoption of the Minority Report.

## Recess

Senator Bassett moved that the Senate do now recess for thirty minutes. Senators Young and Reuscher demanded a roll call on said motion.

On roll call the vote was: Yeas 21—Anggelis, Bassett, Blake, Byers, Cornett, C. H. Davis, Mrs. J. Harry Davis, Fields, Greene, Hamilton, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, Overbey, Richmond, Robinson, Van Hoose, Warinner; Nays 15—Blue, Bonn, Clay, Duffy, Francis, Freeman, Hickerson, Kidwell, McCann, Melton, Miller, Reuscher, Ware, Willis, Young. Motion was agreed to.

At the appointed hour, the President called the Senate to order.

### Committee Reports

Senator Ware, seconded by Senator Young, renewed the motion that the Minority Report on **HB** 2 be adopted.

On roll call the vote was: Yeas 15—Blue, Bonn, Clay, Duffy, Francis, Freeman, Hickerson, Kidwell, McCann, Melton, Miller, Reuscher, Ware, Willis, Young; Nays 22—Anggelis, Bassett, Blake, Byers, Cornett, C. H. Davis, Mrs. J. Harry Davis, Fields, Greene, Hamilton, Howard, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, Overbey, Richmond, Robinson, Van Hoose, Warinner. The motion did not pass.

**HB 2** was then read at length for the first time and ordered placed in the Calendar.

**HB 2:** AN ACT relating to income taxes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 141.020 of the Kentucky Revised Statutes is amended to read as follows:

(1) With respect to taxable years beginning after December 31, 1957, an annual tax, consisting of a normal tax and a surtax, shall be paid for each taxable year by every resident individual of this state, upon his entire net income as defined in this chapter. Normal tax shall be determined by applying the rates in subsection (2) to net income and subtracting allowable tax credits provided in subsection (3). Surtax shall be determined according to the rates in subsection (4). The annual tax due shall be the sum of the normal tax and the surtax.

(2) The following rates shall be applied to net income:

(a) Two percent of the amount of net income not exceeding three thousand dollars;

(b) Three percent of the amount of net income in excess of three thousand dollars but not in excess of four thousand dollars;

(c) Four percent of the amount of net income in excess of four thousand dollars but not in excess of five thousand dollars;

(d) Five percent of the amount of net income in excess of five thousand dollars but not in excess of eight thousand dollars;

(e) Six percent of the amount of net income in excess of eight thousand dollars.

(3) The following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) to arrive at normal tax.

(a) Thirteen dollars for an unmarried individual.

(b) Thirteen dollars for a married individual filing a separate return and an additional thirteen dollars for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer; or twenty-six dollars for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code.

(c) Thirteen dollars credit for each dependent whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than six hundred dollars, or who is a child, as defined in Section 151 (e) (3) of the Internal Revenue Code, of the taxpayer and who (i) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or (ii) is a student. No exemption shall be allowed for any dependent who has made a joint return with his spouse.

(d) An additional thirteen dollars credit if the taxpayer has attained the age of sixty-five before the close of the taxable year.

(e) An additional thirteen dollars credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(f) An additional thirteen dollars credit if the taxpayer is blind at the close of the taxable year.

(g) An additional thirteen dollars credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(h) In the case of nonresidents, the tax credits allowable under this subsection shall be that proportion of those permitted therein that is represented by the ratio of the taxpayer's net income in this state to his total net income from all sources; or, if the taxpayer elects to pay the tax under KRS 141.025, as represented by the ratio of the taxpayer's adjusted gross income in this state to his total adjusted gross income.

(i) In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars.

(j) In the case of an estate, the allowable tax credit shall be thirteen dollars.

(4) The following rates shall be applied to the normal tax to determine the surtax:

(a) Ten percent of the amount of normal tax not in excess of twenty-five dollars;

(b) Twenty percent of the amount of normal tax in excess of twenty-five dollars but not in excess of one hundred dollars;

(c) Thirty percent of the amount of normal tax in excess of one hundred dollars.

(5) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income, except as herein provided, from all tangible property, located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by him from labor performed, business done or from other activities in this state, from tangible property located in this state, and from intangible property that has acquired a business situs within this state. The remainder of the income received by him shall be deemed nontaxable by this state.

(6) Subject to the provisions of KRS 141.081 and KRS 141.082, any individual may elect to pay the annual tax imposed by KRS 141.025 in lieu of the tax levied under this section.

Section 2. Section 141.070 of the Kentucky Revised Statutes is amended to read as follows:

(1) Whenever an individual who is a resident of this state has become liable for income tax to another state upon all or any part of his net income for the taxable year, derived from sources without this state and subject to taxation, under this chapter, the amount of income tax payable by him under this chapter shall be credited on his return with the income tax so paid by him to the other state, upon his producing to the proper assessing officer satisfactory evidence of the fact of such payment, except that application of such credits shall not operate to reduce the tax payable under this chapter to an amount less than would have been payable were the income from the other state ignored. The credit provided for by this subsection shall not be granted to a taxpayer when the laws of the other state, under which the income in question is subject to tax assessment, provide for a credit to the taxpayer substantially similar to that granted by subsection (2) of this section.

(2) Whenever an individual not a resident of this state has become liable for income tax to the state where he resides upon his net income for the taxable year, derived from sources within this state and subject to taxation under this chapter, the amount of income tax payable by him under this chapter shall be credited with the proportion of the tax so payable by him to the state where he resides that his income subject to taxation under this chapter bears to his entire income upon which the tax so payable to the other state was imposed,

but only if the laws of the other state grant a substantially similar credit to residents of this state subject to income tax under such laws, or impose a tax upon the personal incomes of its residents derived from sources in this state and exempt from taxation the personal incomes of residents of this state. No credit shall be allowed against the amount of the tax on any income taxable under this chapter that is exempt from taxation under the laws of the other state.

(3) An individual who is not a resident of this state shall not be liable for any income tax under KRS 141.020 (5) if the laws of the state of which such individual was a resident at the time such income was earned in this state contained a reciprocal provision under which nonresidents were exempted from gross or net income taxes to such state, provided the state of residents of such nonresident individual allowed a similar exemption to resident individuals of this state. The exemption authorized by this subsection shall in no manner preclude the Department of Revenue from requiring any information reports pursuant to KRS 141.150 (2).

Section 3. Section 141.180 of the Kentucky Revised Statutes is amended to read as follows:

(1) Every individual having for the taxable year a gross income of seven hundred dollars or more shall make to the Department of Revenue a return stating specifically the items which he claims as deductions and tax credits allowed by this chapter, except that if any individual who has attained the age of sixty-five before the close of his taxable year shall be required to make a return only if he has for the taxable year a gross income of fourteen hundred dollars or more. If the individual is unable to make his own return, the return shall be made by a duly authorized agent.

(2) An optional return properly filed under the provisions of KRS 141.025 shall be deemed sufficient to satisfy the provisions of this section.

(3) Each individual return shall be verified by a written declaration that it is made under the penalties of perjury.

Section 4. Section 141.190 of the Kentucky Revised Statutes is amended to read as follows:

(1) Every fiduciary, except a receiver appointed by authority of law in possession of part only of the property of an individual, shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, setting forth therein such information as may be prescribed by the department:

(a) Every individual having a gross income for the taxable year of seven hundred dollars or over;

(b) Every estate the gross income of which for the taxable year is seven hundred dollars or over;

(c) Every trust the gross income of which for the taxable year is one hundred dollars or over.

(2) Any fiduciary required to make a return under this chapter shall be subject to all the provisions of this chapter that apply to individuals.

Section 5. Section 141.300 of the Kentucky Revised Statutes is amended to read as follows:

(1) Every individual shall, at the time prescribed in subsection (3) of this section, make a declaration of his estimated tax for the taxable year if his gross income from sources other than wages upon which Kentucky income tax will be withheld can reasonably be expected to exceed one hundred dollars for the taxable year and his gross income to be seven hundred dollars or more.

(2) In the declaration required under subsection (1) the individual shall state:

(a) The amount which he estimates as the amount of tax under KRS 141.020 for the taxable year;

(b) The amount which he estimates as the credits for the taxable year under KRS 141.310 and KRS 141.315;

(c) The excess of the amount estimated under subparagraph (a) over the amount estimated under subparagraph (b), which excess for purposes of this chapter shall be considered the estimated tax for the taxable year;

(d) Such other information as may be prescribed in regulations promulgated by the department.

(3) The declaration required under subsection (1) of this section shall be filed with the department on or before April 15 of the taxable year, except that if the requirements of subsection (1) of this section are first met:

(a) After April 1 and before July 2 of the taxable year, the declaration shall be filed on or before July 15 of the taxable year; or

(b) After July 1 and before November 2 of the taxable year, the declaration shall be filed on or before November 15 of the taxable year; or

(c) After November 1 of the taxable year, the declaration shall be filed on or before February 15 of the succeeding taxable year.

(4) An individual may make amendments of a declaration filed during the taxable year under subsection (3) of this section, under regulations prescribed by the department.

(5) If on or before February 15 of the succeeding taxable year the taxpayer files a return for the taxable year for which the declara-

tion is required and pays in full the amount computed on the return as payable then, under regulations prescribed by the department:

(a) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before such February 15, such return shall, for the purposes of this section, be considered as such declaration; and

(b) If the tax shown on the return, reduced by the credits under KRS 141.350, is greater than the estimated tax shown in a declaration previously made or, in the last amendment thereof, such return shall, for the purposes of this section, be considered as the amendment of the declaration permitted by subsection (4) of this section to be filed on or before such February 15.

(6) The department shall promulgate regulations governing reasonable extensions of time for filing declarations and paying the estimated tax. Except in the case of taxpayers who are abroad, no such extension shall be for more than six months.

(7) If the taxpayer is unable to make his own declaration, the declaration shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

(8) For the purposes of KRS 131.190, a declaration of estimated tax shall be held and considered a return of income under this chapter.

Section 6. Section 141.360 of the Kentucky Revised Statutes is amended to read as follows:

Unless the tax levied under KRS 141.310 is determined as provided in KRS 141.315, such tax shall be determined in accordance with the following tables for all payments of wages made on and after July 1, 1958.

Commonwealth of Kentucky
DEPARTMENT OF REVENUE
**WITHHOLDING TAX TABLES**
If the payroll period with respect to an employee is WEEKLY

| And the wages are | | And the number of withholding exemptions claimed is— | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| At least | But less than | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| | | The amount of tax to be withheld shall be— | | | | | | | | | | |
| $ 0 | $12 | 2% of Wages | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 12 | 14 | .23 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 14 | 16 | .26 | .03 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 16 | 18 | .29 | .06 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 18 | 20 | .32 | .10 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 20 | 22 | .36 | .13 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 22 | 24 | .39 | .16 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 24 | 26 | .42 | .19 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 26 | 28 | .45 | .23 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 28 | 30 | .49 | .26 | .03 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 30 | 32 | .52 | .29 | .06 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 32 | 34 | .55 | .32 | .10 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 34 | 36 | .59 | .36 | .13 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 36 | 38 | .62 | .39 | .16 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 38 | 40 | .66 | .42 | .19 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 40 | 42 | .70 | .45 | .23 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 42 | 44 | .73 | .49 | .26 | .03 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 44 | 46 | .77 | .52 | .29 | .06 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 46 | 48 | .80 | .56 | .32 | .09 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 48 | 50 | .83 | .59 | .36 | .13 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 50 | 52 | .87 | .63 | .39 | .16 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 52 | 54 | .90 | .66 | .42 | .19 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 54 | 56 | .94 | .70 | .45 | .22 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 56 | 58 | .97 | .73 | .49 | .26 | .03 | 0 | 0 | 0 | 0 | 0 | 0 |
| 58 | 60 | 1.01 | .77 | .52 | .29 | .06 | 0 | 0 | 0 | 0 | 0 | 0 |
| 60 | 62 | 1.04 | .80 | .55 | .32 | .09 | 0 | 0 | 0 | 0 | 0 | 0 |
| 62 | 64 | 1.08 | .84 | .58 | .35 | .13 | 0 | 0 | 0 | 0 | 0 | 0 |
| 64 | 66 | 1.11 | .87 | .62 | .39 | .16 | 0 | 0 | 0 | 0 | 0 | 0 |
| 66 | 68 | 1.15 | .90 | .65 | .42 | .20 | 0 | 0 | 0 | 0 | 0 | 0 |
| 68 | 70 | 1.18 | .93 | .69 | .45 | .25 | .03 | 0 | 0 | 0 | 0 | 0 |
| 70 | 72 | 1.22 | .97 | .72 | .50 | .30 | .08 | 0 | 0 | 0 | 0 | 0 |
| 72 | 74 | 1.25 | 1.01 | .77 | .55 | .35 | .13 | 0 | 0 | 0 | 0 | 0 |
| 74 | 76 | 1.29 | 1.04 | .82 | .60 | .40 | .18 | 0 | 0 | 0 | 0 | 0 |
| 76 | 78 | 1.32 | 1.10 | .88 | .66 | .44 | .23 | .02 | 0 | 0 | 0 | 0 |
| 78 | 80 | 1.36 | 1.15 | .93 | .72 | .49 | .28 | .07 | 0 | 0 | 0 | 0 |
| 80 | 82 | 1.42 | 1.20 | .98 | .76 | .54 | .33 | .12 | 0 | 0 | 0 | 0 |
| 82 | 84 | 1.47 | 1.25 | 1.03 | .82 | .59 | .37 | .17 | 0 | 0 | 0 | 0 |
| 84 | 86 | 1.52 | 1.30 | 1.09 | .87 | .65 | .42 | .22 | .01 | 0 | 0 | 0 |
| 86 | 88 | 1.57 | 1.36 | 1.14 | .92 | .70 | .48 | .27 | .08 | 0 | 0 | 0 |

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| $ 88 | $ 90 | 1.62 | 1.41 | 1.20 | .97 | .75 | .52 | .34 | .15 | 0 | 0 | 0 |
| 90 | 92 | 1.67 | 1.46 | 1.25 | 1.03 | .81 | .59 | .40 | .22 | 0 | 0 | 0 |
| 92 | 94 | 1.72 | 1.51 | 1.30 | 1.08 | .87 | .66 | .47 | .28 | .04 | 0 | 0 |
| 94 | 96 | 1.77 | 1.56 | 1.36 | 1.14 | .94 | .73 | .53 | .35 | .12 | 0 | 0 |
| 96 | 98 | 1.82 | 1.62 | 1.41 | 1.21 | 1.01 | .80 | .60 | .42 | .21 | 0 | 0 |
| 98 | 100 | 1.87 | 1.67 | 1.47 | 1.28 | 1.08 | .87 | .68 | .49 | .30 | .02 | 0 |
| 100 | 105 | 1.99 | 1.81 | 1.65 | 1.45 | 1.26 | 1.06 | .87 | .68 | .50 | .24 | 0 |
| 105 | 110 | 2.14 | 1.98 | 1.83 | 1.64 | 1.45 | 1.25 | 1.07 | .89 | .73 | .51 | .23 |
| 110 | 115 | 2.31 | 2.14 | 2.02 | 1.83 | 1.65 | 1.45 | 1.29 | 1.14 | .98 | .80 | .51 |
| 115 | 120 | 2.49 | 2.32 | 2.21 | 2.03 | 1.87 | 1.70 | 1.54 | 1.38 | 1.22 | 1.05 | .81 |
| 120 | 125 | 2.69 | 2.51 | 2.43 | 2.27 | 2.11 | 1.94 | 1.79 | 1.63 | 1.47 | 1.30 | 1.11 |
| 125 | 130 | 2.88 | 2.72 | 2.69 | 2.53 | 2.36 | 2.19 | 2.03 | 1.87 | 1.71 | 1.55 | 1.39 |
| 130 | 135 | 3.09 | 2.97 | 2.95 | 2.79 | 2.63 | 2.45 | 2.28 | 2.12 | 1.96 | 1.79 | 1.63 |
| 135 | 140 | 3.33 | 3.22 | 3.21 | 3.05 | 2.89 | 2.72 | 2.55 | 2.37 | 2.20 | 2.04 | 1.88 |
| 140 | 145 | 3.56 | 3.47 | 3.47 | 3.31 | 3.15 | 2.98 | 2.81 | 2.63 | 2.46 | 2.28 | 2.12 |
| 145 | 150 | 3.80 | 3.70 | 3.73 | 3.57 | 3.41 | 3.25 | 3.08 | 2.90 | 2.73 | 2.55 | 2.38 |
| 150 | 155 | 4.04 | 3.93 | 3.99 | 3.83 | 3.67 | 3.51 | 3.35 | 3.17 | 3.00 | 2.82 | 2.65 |
| 155 | 160 | 4.28 | 4.17 | 4.25 | 4.09 | 3.93 | 3.77 | 3.61 | 3.43 | 3.26 | 3.08 | 2.91 |
| 160 | 165 | 4.51 | 4.41 | 4.52 | 4.35 | 4.20 | 4.03 | 3.88 | 3.70 | 3.53 | 3.35 | 3.18 |
| 165 | 170 | 4.75 | 4.65 | 4.78 | 4.61 | 4.46 | 4.29 | 4.14 | 3.97 | 3.80 | 3.62 | 3.45 |
| 170 | 175 | 4.98 | 4.88 | 5.04 | 4.87 | 4.72 | 4.55 | 4.40 | 4.23 | 4.06 | 3.89 | 3.75 |
| 175 | 180 | 5.20 | 5.12 | 5.30 | 5.13 | 4.98 | 4.81 | 4.66 | 4.51 | 4.36 | 4.21 | 4.07 |
| 180 | 185 | 5.43 | 5.35 | 5.56 | 5.39 | 5.24 | 5.07 | 4.94 | 4.81 | 4.68 | 4.53 | 4.39 |
| 185 | 190 | 5.66 | 5.58 | 5.82 | 5.65 | 5.51 | 5.38 | 5.25 | 5.12 | 5.00 | 4.85 | 4.71 |
| 190 | 195 | 5.87 | 5.80 | 6.08 | 5.94 | 5.82 | 5.69 | 5.56 | 5.43 | 5.31 | 5.17 | 5.03 |
| 195 | 200 | 6.09 | 6.01 | 6.36 | 6.24 | 6.12 | 5.99 | 5.87 | 5.73 | 5.61 | 5.48 | 5.34 |
| 200 | 205 | 6.30 | 6.23 | 6.65 | 6.54 | 6.42 | 6.29 | 6.17 | 6.04 | 5.91 | 5.78 | 5.65 |
| 205 | 210 | 6.52 | 6.45 | 6.94 | 6.84 | 6.73 | 6.59 | 6.47 | 6.34 | 6.22 | 6.09 | 5.96 |
| 210 | 215 | 6.72 | 6.70 | 7.23 | 7.13 | 7.03 | 6.90 | 6.78 | 6.65 | 6.52 | 6.39 | 6.27 |
| 215 | 220 | 6.96 | 6.96 | 7.52 | 7.42 | 7.33 | 7.21 | 7.08 | 6.95 | 6.83 | 6.70 | 6.58 |
| 220 | 225 | 7.20 | 7.21 | 7.80 | 7.71 | 7.62 | 7.51 | 7.39 | 7.25 | 7.13 | 7.00 | 6.88 |
| 225 | 230 | 7.44 | 7.45 | 8.09 | 8.00 | 7.91 | 7.81 | 7.69 | 7.56 | 7.44 | 7.30 | 7.18 |
| 230 | 235 | 7.68 | 7.70 | 8.38 | 8.28 | 8.20 | 8.10 | 8.00 | 7.86 | 7.74 | 7.61 | 7.49 |
| 235 | 240 | 7.93 | 7.94 | 8.67 | 8.58 | 8.49 | 8.39 | 8.30 | 8.17 | 8.04 | 7.91 | 7.79 |
| 240 | 245 | 8.17 | 8.18 | 8.96 | 8.86 | 8.78 | 8.68 | 8.60 | 8.47 | 8.35 | 8.22 | 8.10 |
| 245 | 250 | 8.41 | 8.42 | 9.25 | 9.15 | 9.07 | 8.97 | 8.88 | 8.78 | 8.65 | 8.52 | 8.40 |
| 250 | 255 | 8.63 | 8.66 | 9.54 | 9.44 | 9.35 | 9.26 | 9.17 | 9.08 | 8.96 | 8.82 | 8.70 |
| 255 | 260 | 8.85 | 8.90 | 9.82 | 9.73 | 9.64 | 9.55 | 9.46 | 9.36 | 9.26 | 9.13 | 9.01 |
| 260 | 265 | 9.08 | 9.13 | 10.11 | 10.02 | 9.93 | 9.84 | 9.75 | 9.65 | 9.57 | 9.43 | 9.31 |
| 265 | 270 | 9.30 | 9.36 | 10.40 | 10.31 | 10.22 | 10.12 | 10.04 | 9.94 | 9.86 | 9.74 | 9.62 |
| 270 | 275 | 9.52 | 9.58 | 10.68 | 10.59 | 10.51 | 10.41 | 10.33 | 10.23 | 10.14 | 10.04 | 9.92 |
| 275 | 280 | 9.74 | 9.80 | 10.96 | 10.88 | 10.80 | 10.70 | 10.61 | 10.52 | 10.43 | 10.34 | 10.22 |
| 280 | 285 | 9.97 | 10.02 | 11.23 | 11.17 | 11.08 | 10.99 | 10.90 | 10.81 | 10.72 | 10.62 | 10.53 |
| 285 | 290 | 10.18 | 10.25 | 11.50 | 11.44 | 11.38 | 11.28 | 11.19 | 11.10 | 11.01 | 10.92 | 10.83 |
| 290 | 295 | 10.39 | 10.47 | 11.78 | 11.72 | 11.66 | 11.57 | 11.48 | 11.39 | 11.30 | 11.20 | 11.12 |
| 295 | 300 | 10.60 | 10.69 | 12.05 | 11.99 | 11.94 | 11.86 | 11.77 | 11.68 | 11.59 | 11.49 | 11.41 |
| 300 and over | | | | | | 5% of all over $300 plus | | | | | | |
| | | 10.60 | 10.69 | 12.05 | 11.99 | 11.94 | 11.86 | 11.77 | 11.68 | 11.59 | 11.49 | 11.41 |

If the payroll period is bi-weekly the amount to be withheld shall be determined by dividing the amount of wages by two (2) and applying the weekly table and multiplying such amount by two (2).

Commonwealth of Kentucky
DEPARTMENT OF REVENUE
**WITHHOLDING TAX TABLES**
If the payroll period with respect to an employee is MONTHLY

| And the wages are | | And the number of withholding exemptions claimed is— | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | But less | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| At least | than | | | | | The amount of tax to be withheld shall be— | | | | | | |
| $ 0 | $ 56 | 2% of Wages | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 56 | 60 | .97 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 60 | 64 | 1.04 | .05 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 64 | 68 | 1.10 | .11 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 68 | 72 | 1.17 | .18 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 72 | 76 | 1.23 | .24 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 76 | 80 | 1.30 | .31 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 80 | 84 | 1.36 | .37 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 84 | 88 | 1.43 | .44 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 88 | 92 | 1.49 | .50 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 92 | 96 | 1.56 | .57 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 96 | 100 | 1.62 | .63 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 100 | 104 | 1.69 | .70 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 104 | 108 | 1.75 | .76 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 108 | 112 | 1.82 | .83 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 112 | 116 | 1.88 | .89 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 116 | 120 | 1.95 | .96 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 120 | 124 | 2.01 | 1.02 | .03 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 124 | 128 | 2.08 | 1.09 | .09 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 128 | 132 | 2.14 | 1.15 | .16 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 132 | 136 | 2.21 | 1.22 | .22 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 136 | 140 | 2.27 | 1.28 | .29 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 140 | 144 | 2.34 | 1.35 | .35 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 144 | 148 | 2.41 | 1.41 | .42 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 148 | 152 | 2.48 | 1.48 | .48 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 152 | 156 | 2.56 | 1.54 | .55 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 156 | 160 | 2.63 | 1.61 | .61 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 160 | 164 | 2.70 | 1.67 | .68 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 164 | 168 | 2.77 | 1.74 | .74 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 168 | 172 | 2.84 | 1.80 | .81 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 172 | 176 | 2.91 | 1.87 | .87 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 176 | 180 | 2.98 | 1.93 | .94 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 180 | 184 | 3.05 | 2.00 | 1.00 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 184 | 188 | 3.12 | 2.06 | 1.07 | .07 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 188 | 192 | 3.19 | 2.13 | 1.13 | .13 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 192 | 196 | 3.26 | 2.19 | 1.20 | .20 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 196 | 200 | 3.33 | 2.25 | 1.26 | .26 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 200 | 204 | 3.40 | 2.32 | 1.33 | .33 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 204 | 208 | 3.47 | 2.39 | 1.39 | .39 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 208 | 212 | 3.54 | 2.46 | 1.46 | .46 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 212 | 216 | 3.61 | 2.53 | 1.52 | .52 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 216 | 220 | 3.68 | 2.61 | 1.59 | .59 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| $ 220 | $ 224 | 3.74 | 2.68 | 1.65 | .65 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 224 | 228 | 3.81 | 2.75 | 1.72 | .72 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 228 | 232 | 3.88 | 2.82 | 1.78 | .78 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 232 | 236 | 3.95 | 2.89 | 1.85 | .85 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 236 | 240 | 4.02 | 2.96 | 1.91 | .91 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 240 | 248 | 4.16 | 3.10 | 2.04 | 1.04 | .05 | 0 | 0 | 0 | 0 | 0 | 0 |
| 248 | 256 | 4.30 | 3.24 | 2.17 | 1.17 | .18 | 0 | 0 | 0 | 0 | 0 | 0 |
| 256 | 264 | 4.44 | 3.38 | 2.30 | 1.30 | .31 | 0 | 0 | 0 | 0 | 0 | 0 |
| 264 | 272 | 4.57 | 3.51 | 2.44 | 1.43 | .44 | 0 | 0 | 0 | 0 | 0 | 0 |
| 272 | 280 | 4.72 | 3.65 | 2.58 | 1.56 | .57 | 0 | 0 | 0 | 0 | 0 | 0 |
| 280 | 288 | 4.85 | 3.79 | 2.73 | 1.69 | .70 | 0 | 0 | 0 | 0 | 0 | 0 |
| 288 | 296 | 4.99 | 3.93 | 2.87 | 1.82 | .88 | 0 | 0 | 0 | 0 | 0 | 0 |
| 296 | 304 | 5.13 | 4.07 | 3.01 | 1.97 | 1.07 | .18 | 0 | 0 | 0 | 0 | 0 |
| 304 | 312 | 5.27 | 4.21 | 3.15 | 2.16 | 1.27 | .37 | 0 | 0 | 0 | 0 | 0 |
| 312 | 320 | 5.41 | 4.35 | 3.34 | 2.37 | 1.46 | .57 | 0 | 0 | 0 | 0 | 0 |
| 320 | 328 | 5.55 | 4.48 | 3.56 | 2.58 | 1.66 | .76 | 0 | 0 | 0 | 0 | 0 |
| 328 | 336 | 5.69 | 4.69 | 3.77 | 2.79 | 1.85 | .96 | .07 | 0 | 0 | 0 | 0 |
| 336 | 344 | 5.84 | 4.90 | 3.98 | 3.00 | 2.05 | 1.15 | .26 | 0 | 0 | 0 | 0 |
| 344 | 352 | 6.05 | 5.10 | 4.19 | 3.22 | 2.24 | 1.35 | .46 | 0 | 0 | 0 | 0 |
| 352 | 360 | 6.26 | 5.31 | 4.40 | 3.43 | 2.45 | 1.54 | .65 | 0 | 0 | 0 | 0 |
| 360 | 368 | 6.46 | 5.52 | 4.62 | 3.64 | 2.67 | 1.74 | .84 | 0 | 0 | 0 | 0 |
| 368 | 376 | 6.66 | 5.73 | 4.83 | 3.85 | 2.88 | 1.93 | 1.04 | .13 | 0 | 0 | 0 |
| 376 | 384 | 6.86 | 5.94 | 5.04 | 4.07 | 3.09 | 2.13 | 1.28 | .45 | 0 | 0 | 0 |
| 384 | 392 | 7.06 | 6.14 | 5.25 | 4.28 | 3.30 | 2.34 | 1.54 | .74 | 0 | 0 | 0 |
| 392 | 400 | 7.26 | 6.35 | 5.47 | 4.49 | 3.52 | 2.62 | 1.80 | 1.00 | 0 | 0 | 0 |
| 400 | 420 | 7.76 | 6.87 | 6.00 | 5.07 | 4.20 | 3.33 | 2.46 | 1.65 | .70 | 0 | 0 |
| 420 | 440 | 8.25 | 7.37 | 6.64 | 5.78 | 4.91 | 4.04 | 3.19 | 2.37 | 1.58 | .38 | 0 |
| 440 | 460 | 8.75 | 8.00 | 7.35 | 6.48 | 5.62 | 4.80 | 3.98 | 3.16 | 2.34 | 1.28 | .09 |
| 460 | 480 | 9.40 | 8.66 | 8.06 | 7.23 | 6.40 | 5.59 | 4.77 | 4.01 | 3.31 | 2.39 | 1.19 |
| 480 | 500 | 10.08 | 9.32 | 8.82 | 8.01 | 7.19 | 6.39 | 5.69 | 4.99 | 4.29 | 3.59 | 2.29 |
| 500 | 520 | 10.80 | 10.05 | 9.59 | 8.80 | 8.08 | 7.38 | 6.68 | 5.98 | 5.28 | 4.58 | 3.49 |
| 520 | 540 | 11.59 | 10.85 | 10.44 | 9.76 | 9.06 | 8.36 | 7.66 | 6.96 | 6.26 | 5.56 | 4.69 |
| 540 | 560 | 12.37 | 11.65 | 11.49 | 10.79 | 10.07 | 9.35 | 8.64 | 7.94 | 7.24 | 6.54 | 5.84 |
| 560 | 580 | 13.15 | 12.65 | 12.53 | 11.83 | 11.13 | 10.37 | 9.62 | 8.93 | 8.23 | 7.53 | 6.83 |
| 580 | 600 | 14.10 | 13.64 | 13.57 | 12.88 | 12.19 | 11.44 | 10.68 | 9.92 | 9.21 | 8.51 | 7.81 |
| 600 | 640 | 16.00 | 15.57 | 15.66 | 14.96 | 14.28 | 13.57 | 12.81 | 12.05 | 11.29 | 10.53 | 9.78 |
| 640 | 680 | 17.90 | 17.46 | 17.74 | 17.05 | 16.36 | 15.67 | 14.94 | 14.18 | 13.42 | 12.66 | 11.91 |
| 680 | 720 | 19.80 | 19.36 | 19.83 | 19.13 | 18.45 | 17.75 | 17.06 | 16.32 | 15.56 | 14.80 | 14.05 |
| 720 | 760 | 21.65 | 21.26 | 21.91 | 21.22 | 20.53 | 19.84 | 19.14 | 18.45 | 17.69 | 16.99 | 16.37 |
| 760 | 800 | 23.46 | 23.15 | 24.00 | 23.30 | 22.62 | 21.92 | 21.30 | 20.75 | 20.18 | 19.55 | 18.93 |
| 800 | 840 | 25.24 | 24.94 | 26.07 | 25.44 | 24.90 | 24.35 | 23.80 | 23.24 | 22.69 | 22.10 | 21.48 |
| 840 | 880 | 26.96 | 26.66 | 28.33 | 27.88 | 27.33 | 26.78 | 26.23 | 25.68 | 25.13 | 24.57 | 23.97 |
| 880 | 920 | 28.67 | 28.47 | 30.64 | 30.25 | 29.77 | 29.21 | 28.66 | 28.11 | 27.56 | 27.01 | 26.46 |
| 920 | 960 | 30.48 | 30.53 | 32.95 | 32.56 | 32.17 | 31.65 | 31.10 | 30.54 | 29.99 | 29.44 | 28.90 |
| 960 | 1,000 | 32.41 | 32.48 | 35.26 | 34.86 | 34.48 | 34.08 | 33.53 | 32.98 | 32.43 | 31.87 | 31.33 |
| 1,000 | 1,040 | 34.35 | 34.42 | 37.57 | 37.17 | 36.79 | 36.39 | 35.96 | 35.41 | 34.86 | 34.31 | 33.77 |
| 1,040 | 1,080 | 36.28 | 36.35 | 39.88 | 39.47 | 39.10 | 38.70 | 38.30 | 37.85 | 37.29 | 36.74 | 36.20 |
| 1,080 | 1,120 | 38.07 | 38.29 | 42.19 | 41.79 | 41.40 | 41.01 | 40.61 | 40.22 | 39.73 | 39.17 | 38.63 |
| 1,120 | 1,160 | 39.85 | 40.12 | 44.49 | 44.10 | 43.71 | 43.32 | 42.92 | 42.53 | 42.13 | 41.61 | 41.07 |
| 1,160 | 1,200 | 41.63 | 41.90 | 46.75 | 46.41 | 46.02 | 45.63 | 45.23 | 44.83 | 44.44 | 44.04 | 43.50 |
| 1,200 | 1,250 | 43.85 | 44.12 | 49.48 | 49.24 | 48.91 | 48.51 | 48.12 | 47.72 | 47.32 | 46.93 | 46.54 |
| 1,250 | and over | | | | | | | 5% of all over $1,250 plus | | | | |
| | | 43.85 | 44.12 | 49.48 | 49.24 | 48.91 | 48.51 | 48.12 | 47.72 | 47.32 | 46.93 | 46.54 |

If the payroll period with respect to an employee is semi-monthly, the amount to be withheld shall be determined by multiplying the wages by two (2), applying the monthly table, and dividing the tax shown on the monthly table by two (2).

Commonwealth of Kentucky
DEPARTMENT OF REVENUE
**WITHHOLDING TAX TABLES**
If the payroll period with respect to an employee is DAILY

| And the wages are | | And the number of wihthholding exemptions claimed is— | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | But less | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| At least | than | The amount of tax to be withheld shall be— | | | | | | | | | | |
| $ 0 | $1.75 | 2% of Wages | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 1.75 | 2.00 | .03 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2.00 | 2.25 | .04 | .01 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2.25 | 2.50 | .04 | .01 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2.50 | 2.75 | .04 | .01 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2.75 | 3.00 | .05 | .02 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 3.00 | 3.25 | .05 | .02 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 3.25 | 3.50 | .06 | .03 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 3.50 | 3.75 | .06 | .03 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 3.75 | 4.00 | .06 | .04 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4.00 | 4.25 | .07 | .04 | .01 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4.25 | 4.50 | .07 | .04 | .01 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4.50 | 4.75 | .08 | .05 | .01 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4.75 | 5.00 | .08 | .05 | .02 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 5.00 | 5.25 | .09 | .06 | .02 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 5.25 | 5.50 | .09 | .06 | .03 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 5.50 | 5.75 | .09 | .06 | .03 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 5.75 | 6.00 | .10 | .07 | .03 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 6.00 | 6.25 | .10 | .07 | .04 | .01 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 6.25 | 6.50 | .11 | .07 | .04 | .01 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 6.50 | 6.75 | .11 | .08 | .04 | .01 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 6.75 | 7.00 | .12 | .08 | .05 | .01 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 7.00 | 7.25 | .12 | .09 | .05 | .02 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 7.25 | 7.50 | .13 | .09 | .06 | .02 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 7.50 | 7.75 | .13 | .10 | .06 | .03 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 7.75 | 8.00 | .13 | .10 | .06 | .03 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 8.00 | 8.25 | .14 | .10 | .07 | .03 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 8.25 | 8.50 | .14 | .11 | .07 | .04 | .01 | 0 | 0 | 0 | 0 | 0 | 0 |
| 8.50 | 8.75 | .15 | .11 | .08 | .04 | .01 | 0 | 0 | 0 | 0 | 0 | 0 |
| 8.75 | 9.00 | .15 | .12 | .08 | .05 | .02 | 0 | 0 | 0 | 0 | 0 | 0 |
| 9.00 | 9.25 | .16 | .12 | .08 | .05 | .02 | 0 | 0 | 0 | 0 | 0 | 0 |
| 9.25 | 9.50 | .16 | .13 | .09 | .05 | .02 | 0 | 0 | 0 | 0 | 0 | 0 |
| 9.50 | 9.75 | .16 | .13 | .09 | .06 | .03 | 0 | 0 | 0 | 0 | 0 | 0 |
| 9.75 | 10.00 | .17 | .14 | .10 | .06 | .03 | .01 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| $10.00 | $10.50 | .18 | .15 | .11 | .07 | .05 | .01 | 0 | 0 | 0 | 0 | 0 |
| 10.50 | 11.00 | .19 | .15 | .12 | .09 | .06 | .02 | 0 | 0 | 0 | 0 | 0 |
| 11.00 | 11.50 | .20 | .17 | .13 | .10 | .07 | .03 | .01 | 0 | 0 | 0 | 0 |
| 11.50 | 12.00 | .21 | .18 | .14 | .11 | .09 | .05 | .02 | 0 | 0 | 0 | 0 |
| 12.00 | 12.50 | .22 | .19 | .16 | .13 | .10 | .06 | .03 | 0 | 0 | 0 | 0 |
| 12.50 | 13.00 | .23 | .21 | .17 | .14 | .11 | .07 | .05 | .02 | 0 | 0 | 0 |
| 13.00 | 13 50 | .25 | .22 | .18 | .15 | .13 | .09 | .06 | .04 | .01 | 0 | 0 |
| 13.50 | 14.00 | .26 | .23 | .20 | .17 | .14 | .11 | .08 | .06 | .03 | 0 | 0 |
| 14.00 | 14.50 | .27 | .24 | .22 | .19 | .16 | .13 | .10 | .08 | .05 | .01 | 0 |
| 14.50 | 15.00 | .28 | .26 | .23 | .20 | .18 | .14 | .12 | .10 | .07 | .03 | 0 |
| 15.00 | 15.50 | .30 | .28 | .25 | .22 | .20 | .16 | .14 | .12 | .08 | .05 | .01 |
| 15.50 | 16.00 | .31 | .29 | .27 | .24 | .22 | .18 | .16 | .14 | .11 | .08 | .04 |
| 16.00 | 16.50 | .33 | .31 | .28 | .26 | .24 | .20 | .18 | .16 | .13 | .11 | .07 |
| 16.50 | 17.00 | .35 | .33 | .30 | .28 | .26 | .23 | .21 | .19 | .16 | .14 | .10 |
| 17.00 | 17.50 | .37 | .35 | .32 | .30 | .28 | .25 | .23 | .21 | .18 | .16 | .13 |
| 17.50 | 18.00 | .39 | .37 | .35 | .33 | .31 | .28 | .26 | .24 | .21 | .19 | .16 |
| 18.00 | 18.50 | .41 | .39 | .37 | .35 | .33 | .30 | .28 | .26 | .23 | .21 | .19 |
| 18.50 | 19.00 | .43 | .41 | .40 | .38 | .36 | .33 | .30 | .28 | .25 | .23 | .21 |
| 19.00 | 19.50 | .45 | .43 | .42 | .40 | .38 | .35 | .33 | .31 | .28 | .26 | .24 |
| 19.50 | 20.00 | .47 | .46 | .45 | .43 | .41 | .38 | .36 | .33 | .30 | .28 | .26 |
| 20.00 | 21.00 | .52 | .51 | .50 | .48 | .46 | .43 | .41 | .38 | .36 | .34 | .31 |
| 21.00 | 22.00 | .57 | .55 | .55 | .53 | .51 | .49 | .46 | .43 | .41 | .39 | .36 |
| 22.00 | 23.00 | .61 | .60 | .61 | .59 | .57 | .54 | .52 | .49 | .46 | .44 | .41 |
| 23.00 | 24.00 | .66 | .65 | .66 | .64 | .62 | .59 | .57 | .54 | .52 | .50 | .46 |
| 24.00 | 25.00 | .71 | .70 | .71 | .69 | .67 | .64 | .62 | .59 | .57 | .55 | .52 |
| 25.00 | 26.00 | .75 | .74 | .76 | .74 | .72 | .69 | .67 | .65 | .63 | .61 | .58 |
| 26.00 | 27.00 | .80 | .79 | .81 | .80 | .78 | .75 | .73 | .71 | .69 | .68 | .65 |
| 27.00 | 28.00 | .84 | .83 | .87 | .85 | .83 | .81 | .79 | .77 | .76 | .74 | .71 |
| 28.00 | 29.00 | .88 | .88 | .92 | .91 | .90 | .87 | .86 | .83 | .82 | .80 | .77 |
| 29.00 | 30.00 | .93 | .92 | .98 | .97 | .96 | .93 | .92 | .89 | .88 | .86 | .84 |
| 30.00 | 31.00 | .97 | .97 | 1.04 | 1.03 | 1.02 | .99 | .98 | .95 | .94 | .92 | .90 |
| 31.00 | 32.00 | 1.02 | 1.02 | 1.10 | 1.09 | 1.08 | 1.05 | 1.04 | 1.01 | 1.00 | .98 | .96 |
| 32.00 | 33.00 | 1.06 | 1.07 | 1.15 | 1.14 | 1.13 | 1.11 | 1.10 | 1.07 | 1.06 | 1.04 | 1.02 |
| 33.00 | 34.00 | 1.11 | 1.12 | 1.21 | 1.20 | 1.19 | 1.17 | 1.16 | 1.14 | 1.12 | 1.11 | 1.08 |
| 34.00 | 35.00 | 1.16 | 1.17 | 1.27 | 1.26 | 1.25 | 1.23 | 1.22 | 1.20 | 1.18 | 1.17 | 1.14 |
| 35.00 | 36.00 | 1.21 | 1.22 | 1.33 | 1.32 | 1.31 | 1.29 | 1.28 | 1.26 | 1.24 | 1.23 | 1.20 |
| 36.00 | 37.00 | 1.25 | 1.26 | 1.38 | 1.37 | 1.37 | 1.35 | 1.34 | 1.32 | 1.30 | 1.29 | 1.26 |
| 37.00 | 38.00 | 1.30 | 1.31 | 1.44 | 1.43 | 1.42 | 1.40 | 1.39 | 1.37 | 1.36 | 1.35 | 1.32 |
| 38.00 | 39.00 | 1.34 | 1.36 | 1.50 | 1.49 | 1.48 | 1.46 | 1.45 | 1.43 | 1.42 | 1.41 | 1.39 |
| 39.00 | 40.00 | 1.39 | 1.40 | 1.56 | 1.55 | 1.54 | 1.52 | 1.51 | 1.49 | 1.48 | 1.47 | 1.45 |
| 40.00 | 41.00 | 1.43 | 1.44 | 1.61 | 1.61 | 1.60 | 1.58 | 1.57 | 1.55 | 1.54 | 1.53 | 1.51 |
| 41.00 | 42.00 | 1.48 | 1.49 | 1.66 | 1.66 | 1.65 | 1.63 | 1.62 | 1.61 | 1.60 | 1.59 | 1.57 |
| 42.00 | and over | | | | | 5% of all over $42.00 plus | | | | | | |
| | | 1.48 | 1.49 | 1.66 | 1.66 | 1.65 | 1.63 | 1.62 | 1.61 | 1.60 | 1.59 | 1.57 |

This table shall be used in calculating the proper amount to be withheld in the case of a miscellaneous payroll period.

Commonwealth of Kentucky
DEPARTMENT OF REVENUE
**WITHHOLDING TAX TABLES**
If the payroll period with the respect of an employee is QUARTERLY

| And the wages are | | And the number of wihtholding exemptions claimed is— | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | But less | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| At least | than | The amount of tax to be withheld shall be— | | | | | | | | | | |
| $ 0 | $ 156 | 2% of Wages | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 156 | 168 | 2.73 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 168 | 180 | 2.92 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 180 | 192 | 3.12 | .13 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 192 | 204 | 3.31 | .32 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 204 | 216 | 3.51 | .52 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 216 | 228 | 3.70 | .71 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 228 | 240 | 3.90 | .91 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 240 | 252 | 4.09 | 1.11 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 252 | 264 | 4.29 | 1.30 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 264 | 276 | 4.48 | 1.50 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 276 | 288 | 4.68 | 1.69 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 288 | 300 | 4.87 | 1.89 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 300 | 312 | 5.07 | 2.08 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 312 | 324 | 5.26 | 2.28 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 324 | 336 | 5.46 | 2.47 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 336 | 348 | 5.63 | 2.67 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 348 | 360 | 5.85 | 2.86 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 360 | 372 | 6.04 | 3.05 | .08 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 372 | 384 | 6.24 | 3.25 | .27 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 384 | 396 | 6.43 | 3.44 | .47 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 396 | 408 | 6.63 | 3.64 | .66 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 408 | 420 | 6.82 | 3.84 | .86 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 420 | 432 | 7.03 | 4.03 | 1.05 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 432 | 444 | 7.24 | 4.23 | 1.25 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 444 | 456 | 7.45 | 4.42 | 1.44 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 456 | 468 | 7.67 | 4.61 | 1.64 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 468 | 480 | 7.88 | 4.81 | 1.83 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 480 | 492 | 8.09 | 5.00 | 2.03 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 492 | 504 | 8.30 | 5.20 | 2.22 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 504 | 516 | 8.51 | 5.39 | 2.42 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 516 | 528 | 8.73 | 5.59 | 2.61 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 528 | 540 | 8.94 | 5.78 | 2.81 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 540 | 552 | 9.15 | 5.98 | 3.00 | .02 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 552 | 564 | 9.36 | 6.17 | 3.20 | .21 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 564 | 576 | 9.57 | 6.37 | 3.39 | .41 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 576 | 588 | 9.78 | 6.56 | 3.59 | .60 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 588 | 600 | 9.99 | 6.76 | 3.78 | .79 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 600 | 612 | 10.19 | 6.96 | 3.98 | .99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 612 | 624 | 10.40 | 7.18 | 4.17 | 1.18 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 624 | 636 | 10.61 | 7.39 | 4.37 | 1.38 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 636 | 648 | 10.82 | 7.60 | 4.56 | 1.57 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 648 | 660 | 11.03 | 7.81 | 4.76 | 1.77 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| $ 660 | $ 672 | 11.23 | 8.03 | 4.95 | 1.96 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 672 | 684 | 11.44 | 8.24 | 5.14 | 2.16 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 684 | 696 | 11.65 | 8.45 | 5.34 | 2.35 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 696 | 708 | 11.86 | 8.66 | 5.53 | 2.55 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 708 | 720 | 12.07 | 8.88 | 5.73 | 2.74 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 720 | 744 | 12.48 | 9.29 | 6.12 | 3.13 | .16 | 0 | 0 | 0 | 0 | 0 | 0 |
| 744 | 768 | 12.90 | 9.71 | 6.50 | 3.52 | .55 | 0 | 0 | 0 | 0 | 0 | 0 |
| 768 | 792 | 13.31 | 10.12 | 6.90 | 3.91 | .94 | 0 | 0 | 0 | 0 | 0 | 0 |
| 792 | 816 | 13.72 | 10.54 | 7.33 | 4.30 | 1.33 | 0 | 0 | 0 | 0 | 0 | 0 |
| 816 | 840 | 14.14 | 10.96 | 7.75 | 4.69 | 1.71 | 0 | 0 | 0 | 0 | 0 | 0 |
| 840 | 864 | 14.56 | 11.37 | 8.17 | 5.08 | 2.11 | 0 | 0 | 0 | 0 | 0 | 0 |
| 864 | 888 | 14.98 | 11.79 | 8.60 | 5.47 | 2.64 | 0 | 0 | 0 | 0 | 0 | 0 |
| 888 | 912 | 15.39 | 12.20 | 9.03 | 5.91 | 3.23 | .54 | 0 | 0 | 0 | 0 | 0 |
| 912 | 936 | 15.81 | 12.62 | 9.45 | 6.48 | 3.81 | 1.12 | 0 | 0 | 0 | 0 | 0 |
| 936 | 960 | 16.22 | 13.03 | 10.03 | 7.10 | 4.40 | 1.71 | 0 | 0 | 0 | 0 | 0 |
| 960 | 984 | 16.64 | 13.45 | 10.66 | 7.74 | 4.98 | 2.29 | 0 | 0 | 0 | 0 | 0 |
| 984 | 1,008 | 17.05 | 14.06 | 11.30 | 8.37 | 5.56 | 2.88 | .20 | 0 | 0 | 0 | 0 |
| 1,008 | 1,032 | 17.52 | 14.68 | 11.94 | 9.01 | 6.15 | 3.46 | .78 | 0 | 0 | 0 | 0 |
| 1,032 | 1,056 | 18.14 | 15.31 | 12.58 | 9.65 | 6.74 | 4.04 | 1.37 | 0 | 0 | 0 | 0 |
| 1,056 | 1,080 | 18.76 | 15.93 | 13.21 | 10.28 | 7.36 | 4.63 | 1.95 | 0 | 0 | 0 | 0 |
| 1,080 | 1,104 | 19.39 | 16.56 | 13.85 | 10.92 | 7.99 | 5.21 | 2.53 | 0 | 0 | 0 | 0 |
| 1,104 | 1,128 | 19.99 | 17.18 | 14.49 | 11.56 | 8.63 | 5.80 | 3.12 | .39 | 0 | 0 | 0 |
| 1,128 | 1,152 | 20.59 | 17.80 | 15.13 | 12.20 | 9.27 | 6.38 | 3.84 | 1.34 | 0 | 0 | 0 |
| 1,152 | 1,176 | 21.18 | 18.43 | 15.76 | 12.83 | 9.91 | 7.01 | 4.62 | 2.22 | 0 | 0 | 0 |
| 1,176 | 1,200 | 21.78 | 19.05 | 16.40 | 13.47 | 10.54 | 7.87 | 5.39 | 3.00 | 0 | 0 | 0 |
| 1,200 | 1,260 | 23.27 | 20.61 | 18.00 | 15.20 | 12.59 | 9.99 | 7.39 | 4.95 | 2.09 | 0 | 0 |
| 1,260 | 1,320 | 24.76 | 22.12 | 19.93 | 17.32 | 14.72 | 12.12 | 9.57 | 7.11 | 4.73 | 1.15 | 0 |
| 1,320 | 1,380 | 26.24 | 23.99 | 22.05 | 19.45 | 16.85 | 14.39 | 11.93 | 9.47 | 7.01 | 3.85 | .28 |
| 1,380 | 1,440 | 28.19 | 25.97 | 24.18 | 21.67 | 19.21 | 16.75 | 14.29 | 12.02 | 9.92 | 7.18 | 3.58 |
| 1,440 | 1,500 | 30.24 | 27.96 | 26.45 | 24.04 | 21.58 | 19.18 | 17.08 | 14.98 | 12.88 | 10.78 | 6.88 |
| 1,500 | 1,560 | 32.39 | 30.16 | 28.76 | 26.40 | 24.23 | 22.13 | 20.03 | 17.93 | 15.83 | 13.73 | 10.48 |
| 1,560 | 1,620 | 34.75 | 32.55 | 31.34 | 29.27 | 27.18 | 25.08 | 22.98 | 20.88 | 18.78 | 16.68 | 14.08 |
| 1,620 | 1,680 | 37.12 | 34.95 | 34.47 | 32.38 | 30.19 | 28.03 | 25.93 | 23.83 | 21.73 | 19.63 | 17.53 |
| 1,680 | 1,740 | 39.46 | 37.94 | 37.60 | 35.51 | 33.39 | 31.11 | 28.88 | 26.78 | 24.68 | 22.58 | 20.48 |
| 1,740 | 1,800 | 42.31 | 40.93 | 40.72 | 38.64 | 36.56 | 34.31 | 32.04 | 29.76 | 27.64 | 25.54 | 23.44 |
| 1,800 | 1,920 | 48.00 | 46.70 | 46.98 | 44.88 | 42.82 | 40.71 | 38.44 | 36.16 | 33.89 | 31.61 | 29.34 |
| 1,920 | 2,040 | 53.70 | 52.39 | 53.24 | 51.15 | 49.08 | 46.99 | 44.83 | 42.55 | 40.28 | 38.00 | 35.73 |
| 2,040 | 2,160 | 59.39 | 58.09 | 59.49 | 57.40 | 55.33 | 53.24 | 51.17 | 48.95 | 46.68 | 44.40 | 42.13 |
| 2,160 | 2,280 | 64.95 | 63.78 | 65.75 | 63.66 | 61.59 | 59.50 | 57.43 | 55.34 | 53.07 | 50.98 | 49.10 |
| 2,280 | 2,400 | 70.36 | 69.45 | 72.00 | 69.92 | 67.84 | 65.76 | 63.91 | 62.26 | 60.55 | 58.66 | 56.78 |
| 2,400 | 2,520 | 75.73 | 74.82 | 78.23 | 76.33 | 74.69 | 73.03 | 71.39 | 69.73 | 68.08 | 66.30 | 64.42 |
| 2,520 | 2,640 | 80.88 | 79.97 | 85.01 | 83.64 | 81.99 | 80.33 | 78.69 | 77.03 | 75.39 | 73.73 | 71.91 |
| 2,640 | 2,760 | 86.00 | 85.41 | 91.94 | 90.75 | 89.29 | 87.63 | 85.99 | 84.33 | 82.68 | 81.03 | 79.38 |
| 2,760 | 2,880 | 91.43 | 91.58 | 98.86 | 97.68 | 96.50 | 94.94 | 93.29 | 91.63 | 89.99 | 88.33 | 86.69 |
| 2,880 | 3,000 | 97.24 | 97.45 | 105.79 | 104.60 | 103.42 | 102.24 | 100.59 | 98.93 | 97.29 | 96.63 | 93.99 |
| 3,000 | 3,120 | 103.04 | 103.26 | 112.71 | 111.53 | 110.35 | 109.16 | 107.89 | 106.23 | 104.59 | 102.93 | 101.29 |
| 3,120 | 3,240 | 108.84 | 109.06 | 119.64 | 118.43 | 117.28 | 116.09 | 114.91 | 113.54 | 111.89 | 110.23 | 108.59 |
| 3,240 | 3,360 | 114.21 | 114.86 | 126.57 | 125.38 | 124.20 | 123.02 | 121.84 | 120.65 | 119.19 | 117.53 | 115.89 |
| 3,360 | 3,480 | 119.55 | 120.35 | 133.48 | 132.31 | 131.13 | 129.94 | 128.76 | 127.58 | 126.40 | 124.84 | 123.19 |
| 3,480 | 3,600 | 124.89 | 125.69 | 140.27 | 139.23 | 138.06 | 136.87 | 135.69 | 134.50 | 133.32 | 132.14 | 130.49 |
| 3,600 | 3,750 | 131.56 | 132.36 | 148.46 | 147.74 | 146.71 | 145.53 | 144.35 | 143.16 | 141.98 | 140.79 | 139.62 |
| 3,750 | and over | | | | | 5% of all over $3,750 plus | | | | | | |
| | | 131.56 | 132.36 | 148.46 | 147.74 | 146.71 | 145.53 | 144.35 | 143.16 | 141.98 | 140.79 | 139.62 |

Section 7. Unless otherwise provided herein, the provisions of this Act shall be applicable to all taxpayers for all taxable years beginning on or after January 1, 1958. With respect to all taxable years beginning before January 1, 1958, the provisions of Chapter 141, KRS, as they existed immediately prior to the enactment of this Act, shall remain applicable, the same as though they had not been amended by this Act.

### Motions

Senator Young moved that the Senate comply with a request from the House to return **HB 23**. Agreed.

### Calendar

**SB 31, SB 27, SB 22, SB 54, HB 1** were taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that they be read by title only. Agreed by a majority of the members elected. Ordered placed in Orders of the Day.

### Orders of the Day

**HR 22** taken from the Orders of the Day, and ordered read at length the third time. Senator Bassett moved that it be read by title only. Agreed by a majority of the members elected. Senator moved that it be put to passage. Agreed.

On roll call the vote was: Yeas 35—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. Harry Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis; Nays 1—McCann. **HR 22** passed and the title agreed to.

### Reference of Bills

The President announced referral of the following bills:

Ways and Means: **SB 121.**
Health and Welfare: **SB 122, SB 128.**
Transportation and Highways: **SB 123.**
Revenue and Taxation: **SB 124, SB 125.**
Banking and Insurance: **SB 126, SB 131.**
Suffrage, Elections and Constittuional Amendments: **SB 127.**
Labor: **SB 129, SB 130.**
Executive and Legislative Affairs: **SB 132.**
Judiciary: **SB 133.**

### Introductions

Senator Duffy moved to suspend the Rules for the purpose of introducing a bill. Agreed.

**SB 145**, by Senators Duffy and Fields: AN ACT relating to workmen's compensation.

Senator Bassett moved adjournment until 1:00 p.m., Thursday, February 6, 1958. Agreed.

## THURSDAY, FEBRUARY 6, 1958

## TWENTY-FIFTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Dr. Fred T. Moffatt of the First Baptist Church of Frankfort.

The roll was called. All members present.

The reading of the Journal for Tuesday, February 4, 1958, dispensed with and the same approved on motion of Senator McCann.

### Motions

Senator Robinson moved suspension of the Rules for the purpose of granting Beverly Vinson, a former Congressman, the privilege of the floor. Agreed.

### Introductions

**SR 38,** by Senator Warinner: A CONCURRENT RESOLUTION memorializing Congress to provide aid for school construction.

**SR 39,** by Senator Miller: A CONCURRENT RESOLUTION of the Senate of the General Assembly of Kentucky and the House of Representatives to study the possibility of amending the tax laws of the State of Kentucky.

**SR 40,** by Senator Cornett: A JOINT RESOLUTION authorizing civil action against the Commonwealth of Kentucky and the Department of Highways, or either, in the interest of Charles C. Gross.

**SB 146,** by Senator Young: AN ACT relating to the closing of public offices.

**SB 147,** by Senator McCann: AN ACT relating to motor vehicle registration.

**SB 148,** by Senator Greene: AN ACT relating to public education.

**SB 149,** by Senator Greene: AN ACT changing the classification of the City of Glasgow, in Barren County.

**SB 150,** by Senator Clay: AN ACT relating to election contests and recounts.

**SB 151,** by Senators Duffy and Kelly: AN ACT to submit to the voters of Kentucky a proposed amendment to Section 2 of the Constitution of Kentucky relating to individual rights and freedom of choice.

**SB 152,** by Senator Byers: AN ACT relating to refrigerator safety devices.

**SB 153**, by Senator Robinson: AN ACT relating to tax supervisors.

**SB 154**, by Senator Miller: AN ACT relating to workman's compensation concerning lump-sum settlement, when and how made, and amending KRS 342.150.

**SB 155**, by Senator Knuckles: AN ACT relating to small loan companies.

**SB 156**, by Senator Francis: AN ACT relating to bank deposits tax.

**SB 157**, by Senators Francis and Jackson: AN ACT relating to traffic regulation.

**SB 158**, by Senator Cornett: AN ACT relating to terms of court in the forty-first judicial district.

### Report on Enrolled Bills

Committee on Enrollment reported that **HR 22** had been examined and found correctly enrolled. Said resolution read at length, compared, and signed in open session by the President. Ordered that the original and enrolled copies be delivered to the House.

### Committee Reports

Committee on Executive and Legislative Affairs reported **SB 84, SB 13, SB 75** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 84**: AN ACT relating to public records.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. (1) All written or printed books, documents, papers, pictures, negatives, recording maps, plans, or drawings that are the property of the state or a political subdivision thereof, and in which any entry has been made or is required to be made by law, or which any officer or employe of the state or a political subdivision thereof has received or is required to receive for filing or recording are public records, and shall be subject to inspection as prescribed by this Act.

(2) Any record not made confidential by law shall be subject to inspection by any interested person at any reasonable time. A certified copy of such records shall be furnished by the custodian thereof, upon the payment of such reasonable fee as may be prescribed by law or administrative rule.

(3) Other records may be inspected by any person having sufficient reason therefor who gives notice to the custodian thereof accompanied by an affidavit setting forth the reasons for the inspection and the special circumstances that require disclosure of the records.

(4) Any person refused the right to inspect any public records may bring a mandatory injunction proceeding in Franklin Circuit Court. On determination that the plaintiff's request is in good faith and necessary, the court shall direct that the records be made available to him. The court's order may be appealed as any other court order.

Section 2. Any person who attempts in any manner to delay or hinder an entitled person from examining public records shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned for not less than ten days or more than thirty days.

**SB 13:** AN ACT concerning alcoholic beverages in relation to minors.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. In enacting this Act it is the intention of the General Assembly to place a responsibility upon minors who purchase alcoholic beverages and to punish those who contribute to the delinquency of minors.

Section 2. (1) No person under the age of twenty-one years shall purchase or possess for consumption any alcoholic beverages.

(2) No person shall purchase alcoholic beverages for, or deliver alcoholic beverages to, any person under the age of twenty-one years.

(3) Any person who violates this Act shall be fined not less than fifteen dollars nor more than one hundred dollars for each offense.

Section 3. Section 208.020 of the Kentucky Revised Statutes is amended to read as follows:

(1) The juvenile session of county court in each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has committed a public offense, except a violation involving alcoholic beverages. The court shall not have jurisdiction of any offense involving alcoholic beverages.

(2) Nothing in this chapter shall deprive other courts of the right to determine the custody of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of circuit courts over adoptions and over proceedings for termination of parental rights.

**SB 75:** AN ACT relating to the terms of court for the forty-sixth judicial district.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The preamble and subsection (46) of Section 23.050 of the Kentucky Revised Statutes is amended to read as follows:

The regular term of each court shall commence in each county at the following named time, and continue, if the business requires it, the number of days hereinafter prescribed:

(46) Grayson County, at Leitchfield, on the first Monday in January, the first Monday in April, and the first Monday in September, twenty-four juridical days each.

Meade County, at Brandenburg, on the first Monday in February, the first Monday in May, and the first Monday in October, twenty-four juridical days each.

Breckinridge County, at Hardinsburg, on the first Monday in March, the first Monday in June, and the first Monday in November, twenty-four juridical days each.

Committee on Banking and Insurance reported **SB 67, SB 50, SB 114, SB 60** by way of committee substitute, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 67:** AN ACT relating to fire insurance contracts.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. No fire insurance contract delivered or issued for delivery in this state or covering subjects located in this state shall contain any condition, stipulation or agreement which requires the insured to institute action on the policy under the terms of the fire insurance contract in less than five years after the inception of the loss.

**SB 50:** AN ACT relating to insurance policies.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

New sections of Chapter 304 of the Kentucky Revised Statutes are created to read as follows:

Section 1. All life insurance policies which are issued by insurance companies doing business in this state shall provide that the policy does not cover suicide if committed by the insured within one year after the date of issue of the policy, and this one year period shall not be enlarged or diminished in any such policy.

Section 2. All life insurance policies which are issued by insurance companies doing business in this state shall provide that the policy shall become incontestable after one year from the date of issue of the policy, and this one-year period shall not be enlarged or diminished in any such policy.

Section 3. Where a life insurance policy has been completely paid up for a period of time in the future and the insured dies during this period of time, the insurer shall, in addition to paying the face value of the policy, refund to the insured's estate that percentage of the premium which had not been expended for payment of insurance, said percentage being computed by determining the total number of days for which the policy had been paid, and then determining the number of days that was left in this period after the date of the insured's death, and the percentage acquired by dividing the number of days for which the policy had been paid into the number of days left in the period after the date of the insured's death, shall be the percentage of the premium to be refunded.

**SB 114:** AN ACT relating to liability for the operation of motor vehicles.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

No person transported by the owner, operator or person responsible for the operation of a motor vehicle as his guest without payment therefor, or while engaged in a joint enterprise with the owner, operator, or person responsible shall have a cause of action against such person for injury, death or loss in case of any accident involving the motor vehicle during such transportation unless the passenger, before accepting such transportation, gives the owner, operator, or person responsible actual notice of his intention to institute legal proceedings in case of accident. This statute shall have no effect where the injury, loss or death is caused by the gross negligence or wanton or willful misconduct of the owner, operator or person responsible for the operation of such motor vehicle.

**SB 60:** AN ACT relating to holidays.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 2.110 of the Kentucky Revised Statutes is amended to read as follows:

(1) The 1st day of January (New Year's Day), the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the 22nd day of February (Washington's Birthday), the 30th day of May (Memorial Day), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the 4th day of July (Independence Day), the first Monday in September (Labor Day), the 12th day of October (Columbus Day), the 11th day of November (Veterans Day), the 25th day of December (Christmas Day) of each year, and all days appointed by the President of the United States or by the Governor as days of thanksgiving, are holidays, on which all the public offices of this Commonwealth may be closed; and, subject to the provisions of paragraph 2

hereof, shall be considered as Sunday for all purposes regarding the presenting for payment or acceptance, and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes, placed by law upon the footing of bills of exchange. If any of the days named as holidays occur on Sunday, the next day thereafter shall be observed as a holiday but bills of exchange or other papers may be presented for payment or acceptance on the Saturday preceding the holiday and proceeded on accordingly.

(2) Any bank, trust company, or combined bank and trust company may, at its option, either close or remain open for business on the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the 22nd day of February (Washington's Birthday), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the 12th day of October (Columbus Day), and the 11th day of November (Veterans Day). Any bank, trust company, or combined bank and trust company electing to remain open on such of the above mentioned holidays may do so and as to such bank, trust company, or combined bank and trust company such day or days shall not constitute a holiday within the meaning of the provisions of the negotiable instrument law or any other law of the Commonwealth and such bank, trust company, or combined bank and trust company shall incur no liability by reason of remaining open on such holiday. If any such bank, trust company, or combined bank and trust company elects to close on such holiday, any act authorized, required or permitted to be performed at or by such bank, trust company, or combined bank and trust company, may be performed on the next succeeding business day and no liability or loss of rights of any kind shall result from remaining closed notwithstanding the provisions of any law of this Commonwealth to the contrary. The provisions of this section shall not operate to invalidate or prohibit the doing on any of the aforementioned legal holidays of any act by any person or bank or trust company, or combined bank and trust company, and nothing in this section shall, in any manner whatsoever affect the validity of or render void or voidable the payment, certification or acceptance of a check or any other negotiable instrument or any other transaction by any person or bank or trust company or combined bank and trust company because done or performed during any of the aforesaid holidays, notwithstanding the provisions of any other law of this Commonwealth to the contrary.

(3) No person shall be compelled to labor on the first Monday in September (Labor Day) by any person.

Committee on Labor and Industry reported **SB 129** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 129:** AN ACT relating to workmen's compensation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 342.020 of the Kentucky Revised Statutes is amended to read as follows:

Medical treatment at expense of employer; artificial members and braces. (1) In addition to all other compensation provided in this chapter, the employer shall furnish for the cure and relief from the effects of an injury or occupational disease, such medical, surgical and hospital treatment, including nursing, medical and surgical supplies and appliances, as may reasonably be required at the time of the injury and thereafter during disability, or as may be required for the cure and treatment of an occupational disease.

(2) Where a compensable injury or occupational disease results in the amputation of an arm, hand, leg or foot, or the loss of hearing, or the enucleation of an eye or the loss of teeth, the employer shall initially furnish in addition to other medical, surgical and hospital treatment enumerated in subsection (1) of this section, a modern artificial member, and where required, proper braces.

Section 2. Section 342.025 of the Kentucky Revised Statutes is amended to read as follows:

Hernia. (1) In all claims for hernia resulting from injury received in the course of and resulting from the employe's employment it must be definitely proved to the satisfaction of the board that:

(a) There was an injury resulting in hernia;

(b) The hernia appeared suddenly and immediately following the injury; and

(c) The hernia did not exist in any degree, including the primary or incomplete stage, prior to the injury for which compensation is claimed.

(2) In all such cases where liability for compensation exists, the employer shall provide competent surgical treatment by radical operation. In case the injured employe refuses to submit to the operation, the employer may require a medical examination as provided in KRS 342.205.

(3) If it is shown by such examination that the employe has any chronic disease or is otherwise in such physical condition so as to render it more than ordinarily unsafe to submit to such operation, he shall, if unwilling to submit to the operation, be entitled to compensation for disability under the general provisions of this chapter. If the examination does not disclose the existence of disease or other physical condition rendering the operation more than ordinarily unsafe, and the employe, with the knowledge of the result of such examination, thereafter refuses to submit to such operation, he shall be entitled to compensation for disability under the general provisions of this chap-

ter for not exceeding one year. If the employe submits to the operation he shall, in addition to the surgical benefits herein provided for, be entitled to compensation for his actual disability following such operation. If the hernia results in death within one year after it is sustained, or the operation results in death, such death shall be deemed a result of the injury causing such hernia and compensated accordingly under the provisions of this chapter. This subsection shall not apply where the employe has refused to submit to an operation which has been found by the examination herein provided for not to be more than ordinarily unsafe.

Section 3. Section 342.070 of the Kentucky Revised Statutes is amended to read as follows:

Compensation in case of death. If death should result within two years from an accident for which compensation is payable under this chapter, or from an occupational disease, the employer or his insurer shall pay to the person entitled to compensation, or, if none, then to the personal representative of the deceased employe, reasonable burial expenses of a person of the standard of living of the deceased, not to exceed the sum of five hundred dollars, and shall also pay to or for the following persons compensation as follows:

(1) If there are one or more wholly dependent persons, sixty-five percent of the average weekly earnings of the deceased employe, but not to exceed thirty-two dollars nor less than twelve dollars per week shall be payable, all such payments to be made for the period between the date of death and four hundred weeks after the date of accident to the employe or after the date his disability from an occupational disease began, or until the intervening termination of dependency, but in no case to exceed the maximum sum of twelve thousand and eight hundred dollars.

(2) (a) If there are partly dependent persons, the payments shall be such part of what would be payable for total dependency as the partial dependency existing at the time of the accident or after the date his disability from an occupational disease began to the employe is proportionate to total dependency, and all such payments to be made for the period between the date of death and four hundred weeks after the date of the accident to the deceased employe, or after the date his disability from an occupational disease began, or until the intervening termination of dependency, but in no case to exceed in the aggregate of compensation on account of such death the maximum sum of twelve thousand and eight hundred dollars.

(b) Partial dependency shall be determined by the proportion of the earnings of the employee which have been contributed to such partial dependent during one year next preceding the date of injury or after the date his disability from an occupational disease began; if the relation of partial dependency did not exist for one year next preceding the date of injury, the board shall consider all the facts and circumstances and fix such proportion as is fair and reasonable thereunder.

(3) All relations of dependency referred to in this section shall mean dependency at the time of the accident to the employe or at the time his disability from an occupational disease began.

(4) If death occurs as a result of the injury or an occupational disease after a period of total or partial disability, the period of disability shall be deducted from the total period of compensation and the benefits paid thereunder from the maximum allowed for death by this section.

Section 4. Section 342.095 of the Kentucky Revised Statutes is amended to read as follows:

Compensation for total disability. (1) When the injury or occupational disease causes total disability for work, the employer, during such disability, except for the first seven days thereof, shall pay the employee a weekly compensation equal to sixty-five percent of his average weekly earnings, not to exceed thirty-four dollars nor less than twelve dollars per week, such payments to be made during the period of total disability but not longer than four hundred twenty-five weeks after the date of the injury, or after the date his disability from an occupational disease began, nor in any case to exceed a maximum sum of fourteen thousand four hundred fifty dollars. If the period of total disability begins after a period of partial disability, the period of partial disability shall be deducted from the total period of four hundred twenty-five weeks during which compensation for total disability may be payable, and the payments made on account of such partial disability shall be deducted from the maximum of fourteen thousand, four hundred fifty dollars.

(2) In case of the following injuries or disabilities from occupational disease the disability shall be considered total and permanent:

(a) The total permanent loss of sight in both eyes.

(b) The loss of both feet at or above the ankle.

(c) The loss of both hands at or above the wrist.

(d) A similar loss of one hand and one foot.

(e) A similar loss of one hand and one eye.

(f) A similar loss of one foot and one eye.

(g) A disability to the spine, resulting in permanent and complete paralysis of both arms or both legs, or of one arm and one leg.

(h) A disability to the skull resulting in incurable insanity or imbecility.

(3) The enumeration in subsection (2) is not exclusive, but in all other cases the burden of proof shall be on the claimant to prove

that his injuries or disability resulting from an occupational disease having resulted in permanent total disability.

Section 5. Section 342.100 of the Kentucky Revised Statutes is amended to read as follows:

Compensation for temporary partial disability. In case of an injury or disability from an occupational disease resulting in temporary partial disability, the employe shall receive during such disability, except the first seven days thereof, a weekly compensation equal to sixty-five percent of the difference between his average weekly earnings before the injury or disability from an occupational disease and the average weekly earnings that he earns, or is able to earn, in some suitable employment during such disability, not to exceed four hundred weeks from the date of injury, or from the date his disability from an occupational disease began; nor exceeding the sum of twenty-nine dollars per week nor the maximum sum of ten thousand, three hundred dollars. If partial disability follows a period of total disability, the period of total disability shall be deducted from the maximum period allowed for partial disability.

Section 6. Section 342.105 of the Kentucky Revised Statutes is amended to read as follows:

Compensation for enumerated permanent partial disabilities. For injuries or disabilities from an occupational disease enumerated in the following schedule the employee shall receive, in addition to temporary total disability compensation for the period of actual total disability, not exceeding twenty weeks, a weekly compensation equal to sixty-five percent of his average weekly earnings, but not less than twelve dollars per week nor exceeding twenty-eight dollars per week for the periods stated thereon:

(1) For the loss of a thumb, sixty-five percent of the average weekly wages during sixty weeks.

(2) For the loss of a first finger, commonly called the index finger, sixty-five percent of the average weekly wages during forty-five weeks.

(3) For the loss of a second finger, sixty-five percent of the average weekly wages during thirty weeks.

(4) For the loss of a third finger, sixty-five percent of the average weekly wages during twenty weeks.

(5) For the loss of a fourth finger, commonly known as the little finger, sixty-five percent of the average weekly wages during fifteen weeks.

(6) The loss of the second, or distal phalange, of the thumb shall be considered to be equal to the loss of one-half of the thumb, the loss of more than one-half of the thumb shall be considered equal to the loss of the whole thumb.

(7) The loss of the third, or distal phalange of any finger shall be considered to be equal to the loss of one-third of the finger.

(8) The loss of the middle, or second phalange, of any finger shall be considered equal to the loss of two-thirds of the finger.

(9) The loss of more than the middle and distal phalanges of any finger shall be considered equal to the loss of the whole finger, but in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

(10) For the loss of a metacarpal bone (bone of the palm) for the corresponding thumb, finger or fingers above add ten weeks to the number of weeks as above.

(11) For ankylosis (total stiffness of) or contractures (due to sears or injuries) which makes the fingers more than useless, the same number of weeks apply to such finger or fingers (including thumb) as given above.

(12) For the loss of a hand, sixty-five percent of the average weekly wages during one hundred fifty weeks.

(13) For the loss of an arm, sixty-five percent of the average weekly wages during two hundred weeks.

(14) For the loss of one of the toes, other than the great toe, sixty-five percent of the average weekly wages during ten weeks.

(15) For the loss of the great toe, sixty-five percent of the average weekly wages during thirty weeks.

(16) The loss of more than two-thirds of any toe shall be considered to be equal to the loss of the whole toe.

(17) The loss of less than two-thirds, of any toe shall be considered to be equal to the loss of one-half toe.

(18) For the loss of a foot, sixty-five percent of the average weekly wages during one hundred twenty-five weeks.

(19) For the loss of a leg, sixty-five percent of the average weekly wages during two hundred weeks.

(20) For the total and permanent loss of the sight of an eye, sixty-five percent of the average weekly earnings during one hundred weeks, plus an additional twenty weeks in cases where the eyeball is enucleated.

(21) For the total and permanent loss of hearing in one ear, sixty-five percent of the average weekly wages during seventy-five weeks.

Section 7. Section 342.110 of the Kentucky Revised Statutes is amended to read as follows:

Other permanent partial disability; compensation. In all other cases of permanent partial disability, including any disfigurement which will impair the future usefulness or occupational opportunities of the injured employe, or employe disabled by an occupational disease, compensation shall be determined according to the percentage of disability, taking into account, among other things, any previous disability, the nature of the physical injury or disfigurement, the occupation of the injured employe and age at the time of injury or at the time the disability from an occupational disease began. In no event shall compensation for an injury or disability to a member exceed the amount allowable for the loss of such member. The compensation paid therefor shall be sixty-five percent of the average weekly earnings of the employe but not less than twelve dollars nor more than twenty-nine dollars, multiplied by the percentage of disability caused by the injury or occupational disease, for such period as the board determines, not exceeding four hundred weeks nor a maximum sum of eleven thousand, six hundred dollars. Compensation payable under this section shall not be affected by the earnings of the employe after the accident, or after his disability from an occupational disease, whether they be the same, or greater, or less than prior to the accident or disability from an occupational disease. Whenever the weekly payments under this section would be less than twelve dollars per week, the period may be shortened and the payments correspondingly increased to that amount. Where compensation, except as provided in KRS 342.020 and 342.030, is paid under any other provision of this chapter, the period during which such other compensation is paid shall be deducted from the maximum period which may be paid under this section.

Section 8. Section 342.111 of the Kentucky Revised Statutes is amended to read as follows:

Continuance of disability payments to dependents when employe dies before all of disability award has been paid. (1) When an employe, who has been awarded disability compensation by the Workmen's Compensation Board, shall die as a result of such injury or occupational disease prior to the payment to him of the amount of the award, then the dependents of the deceased employe shall be allowed and paid all allowed and unpaid awards made to such employe. Provided, however, that the dependents of such deceased employe shall, within six months after the death of such employe, file with the Workmen's Compensation Board, in such form as the board may require, a written verified application, stating therein the date of death of such deceased employe; the amount of such allowed and uncollected award; the name, age, postoffice address, and the relation of each of said dependents to the deceased. Thereupon the Workmen's Compensation Board shall notify in writing the company, person or insurance carrier against whom such award was made; and shall fix a time and place for a hearing, of which notice shall be given, to determine the dependency of those asking such claim; and shall make an award or order for the benefit of those found to be entitled thereto. Provided, however, that the number of weekly payments to be paid to the dependents shall be the number of weeks remaining after deducting the number of weekly payments made to the decedent from the number of weeks allowed in the original award.

(2) The total amount paid and payable to the decedent and his dependents shall not exceed the amount now payable for death at the average weekly wage of the decedent at the time of his injury, and the weekly payments to the dependents shall not exceed the sum of thirty-two dollars a week.

Section 9. Section 342.205 of the Kentucky Revised Statutes is amended to read as follows:

Right of employer or employe to require continued physical examinations; effect of employee's refusal. After an injury and so long as compensation is claimed, the workman, if requested by his employer or by the board, shall submit himself to examination, at reasonable time and places, to a duly qualified physician or surgeon designated and paid by the employer. The employe shall have the right to examination by a duly qualified physician or surgeon of his own choosing paid for by the employer, but this right shall not deny the employer's physician or surgeon the right to visit the injured employe at all reasonable times and under all reasonable conditions. If an employe refuses to submit himself to or in any way obstructs such examination his right to take or prosecute any proceedings under this chapter shall be suspended until such refusal or obstruction ceases. No compensation shall be payable for the period during which the refusal or obstruction continues.

Section 10. Section 342.265 of the Kentucky Revised Statutes is amended to read as follows:

Compensation agreements; subject to approval of board. If the employe and employer reach an agreement conforming to the provisions of this chapter in regard to compensation, a memorandum of the agreement shall be filed with the board, and, if approved by it, shall be enforceable as is herein provided for the enforcement of awards of the board. Nothing herein shall prevent the voluntary payment of compensation in the amounts and for the periods prescribed in this chapter without formal agreement, but nothing shall operate as a final settlement except a memorandum of agreement filed with and approved by the board. No limitations of time provided in this act shall begin to run until the date upon which such agreement is filed with and approved by the Board.

Section 11. Section 342.316 of the Kentucky Revised Statutes is amended to read as follows:

Occupational disease; defined; claim and allowance of compensation for. (1) "Occupational Disease" as used in this chapter means a disease arising out of and in the course of the employment. Ordinary diseases of life to which the general public is equally exposed outside of the employment shall not be compensable, except where such diseases follow as an incident of an occupational disease as defined in this section.

(a) A disease shall be deemed to arise out of the employment only if there is apparent to the rational mind, upon consideration of all the circumstances, a direct casual connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause, and which does not come from a hazard to which workmen would have been equally exposed outside of the employment. The disease shall be incidental to the character of the business and not independent of the relationship of employer and employe. The disease need not have been foreseen or expected but, after its contraction, it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence.

(b) "Injurious exposure" as used in this section shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which claim is made.

(2) The proceduce with respect to the giving of notice of disability or death, and as to the filing of claims and determination thereof in occupational disease cases and the compensation and medical benefits payable for disability or death due to such disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter, except that notice of disability shall be given to the employer as soon as practicable after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted such disease, or a diagnosis of such disease is first communicated to him, whichever shall first occur.

(3) The right to compensation under this chapter for disability resulting from an occupational disease shall be forever barred unless a claim is filed with the Workmen's Compensation Board within one year after the last injurious exposure to the occupational hazard or after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within said period, unless a claim therefor be filed with the Workmen's Compensation Board within one year after such death; provided, however, that notice of such claim shall be deemed waived in case

of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or, if the incurrence of the disease or the death of the employe, and its cause was known to the employer.

(4) In claims for compensation due to the occupational disease of silicosis it must be shown that the employe was exposed to the hazard of the disease in his employment within this state for at least two years before his disability or death.

(5) The amount of compensation payable for disability due to occupational disease or for death from such disease, and the time and manner of its payment, shall be the same as provided for accidental injury or death under the general provisions of the Workmen's Compensation Act, but in no event to exceed such amounts, and, provided further, that the time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, and provided further, that in case of death where the employe his been awarded compensation or made timely claim within the period provided for in this section, and employe has suffered continuous disability to the date of his death occuring at any time within ten years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the Workmen's Compensation Act and in this section.

(6) In case of disability or death from silicosis, an occupational disease, complicated with tuberculosis of the lungs, compensation shall be payable as for uncomplicated silicosis, provided, however, that silicosis was an essential factor in causing such disability or death.

(7) If an autopsy has been performed, no testimony relative thereto shall be competent unless the employer or his representative and a representative of the deceased employe shall have participated therein or been given reasonable opportunity to do so.

(8) No compensation shall be payable for occupational disease if the employe at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of such disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(9) Where an occupational disease is aggravated by other disease or infirmity not itself compensable, or where disability or death from any other cause, not itself compensable is aggravated, prolonged,

accelerated or in anywise contributed to by occupational disease the compensation payable shall be reduced and limited to such proportion only of the compensation that would be payable if occupational disease were the sole cause of the disability or death as such occupational disease, as a causative factor, bears to all causes of such disability or death, such reduction in compensation to be affected by reducing the number of weekly or monthly payments or the amount of such payments as under the circumstances of the particular case may be for the best interests of the claimant or claimants.

(10) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which, under the provisions of this chapter would give right to compensation, arose, subsequent to the beginning of the first compensable disability, save only to after-born children of a marriage existing at the beginning of such disability.

(11) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury, disability or death which was the basis for such application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for such injury, disability or death under the provisions of this section, and it shall be deemed to have been filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the board when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with references to notice of time for filing a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required herein.

(12) When an employe has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without rights to contribution from any prior employer or insurance carrier.

Committee on Health and Welfare reported **SB 49** with committee amendment attached thereto, **SB 81**, **SB 94**, **SB 92**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 49:** AN ACT relating to physical therapy and the practice therof, including establishment of a Physical Therapy Board, collection of fees, and the issuance, suspension and revocation of licenses, and prescribing penalties for unlicensed practice of physical therapy and other violations of this Act.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. *Definitions.* As used in this Act, unless the context otherwise requires:

(a) "Physical Therapy" means the treatment of any bodily or mental condition of any person by the use of physical, chemical or mechanical agents; the properties of heat, light, water, electricity; massage; and therapeutic exercises, all under the prescription of a licensed medical doctor. The use of roentgen rays and radium for diagnostic or therapeutic purposes; the use of electricity for surgical purposes, including cauterization; and colonic irrigations are not authorized under the term "physical therapy" as used in this Act.

(b) "Physical Therapist" means a person who is licensed to practice physical therapy.

Section 2. *Persons Authorized to Practice Physical Therapy.*

(a) No person shall engage in the practice of physical therapy or hold himself out as a Physical Therapist or open, occupy or maintain an office for the purpose of practicing physical therapy or otherwise announce his readiness to practice physical therapy in this State unless he is the holder of a valid and unrevoked license issued by the State Board of Physical Therapy. Provided, however, that nothing contained in this Act shall prohibit any person licensed in this State according to law, from carrying out the therapy or practice for which he is duly licensed.

Provided further that persons regularly employed by the United States or in mental hospitals operated by the Commonwealth of Kentucky shall be exempted from the provisions of this Act while engaged in such employment.

(b) A licensed physical therapist may hold himself out as a "Physical Therapist" or "Licensed Physical Therapist" and may use the abbreviations "P. T." or "L. P. T." as a part of or immediately following his name, in connection with his profession. No person who is not the holder of a license from the State Board of Physical Therapy shall so use the terms "Physical Therapist" or "Licensed Physical Therapist" or the abbreviation "L. P. T." and no person other than licensees of said Board or physio-therapists licensed by the State Board of Health shall so use the abbreviation "P. T."

Section 3. *Board of Physical Therapy Created.* There is hereby established a State Board of Physical Therapy which shall consist of three members who shall be appointed by the Governor from a list of five persons submitted by the Kentucky Chapter of the American Physical Therapy Association, all of whom shall be residents of Kentucky and shall have engaged in the practice of physical therapy within this State for at least two years. Members of the first Board shall be appointed for terms of one, two, and three years, respectively. Subsequent appointments shall be for a term of two years and until their successors are appointed and qualify. Vacancies shall be filled by the Governor in like manner from a list of five submitted by the Kentucky Chapter of the American Physical Therapy Association. The Board shall annually elect a Chairman and a Secretary.

Section 4. *Duties of Board.* It shall be the duty of the State Board of Physical Therapy to receive applications from persons desiring to become Physical Therapists and to determine whether said applicants meet the qualifications and standards required by this Act of all Physical Therapists. The Board shall also be charged with enforcement of the provisions of this Act.

The Board is hereby constituted a body corporate, with power to sue and be sued, to institute criminal proceedings in the name of the Commonwealth against violators of this Act, or to institute civil proceedings to enjoin violation thereof, or both. It shall investigate every supposed violation of this Act coming to its notice and shall take such action as it may deem to be appropriate. It shall be the duty of the Attorney General, the Commonwealth attorneys and the County attorneys to assist the Board in prosecuting all violations of this Act.

The Board shall meet at least once each quarter at such place in this state as may be selected by the Board. Two members of the Board shall constitute a quorum for the transaction of business. All meetings shall be held at the call of the Chairman upon not less than ten days written notice, unless notice shall be waived. The presence of any member at any meeting of the Board shall constitute a waiver of notice thereof by such member.

The Board may administer oaths and compel the attendance of witnesses to give testimony as to any matters pertaining to its duties. It shall keep a minute book containing a record of all meetings of the Board, and a register of all persons licensed under this Act. This register shall show the name of every living Physical Therapist in this State, his last known business and residence addresses, and the date and number of his license.

The Board shall adopt a seal which shall be affixed to every license granted by it. It may adopt and enforce reasonable regulations for the effectuation of the purposes of this Act, which regulations when properly filed with the Legislative Research Commission, shall have the force and effect of law.

Section 5. *Applications for and Issuance of Licenses.* To be eligible for licensure by the Board as a Physical Therapist, an applicant must be a high school graduate of good moral character, and a graduate of an accredited school of physical therapy approved by the Board. No school shall be approved unless it has been accredited or approved by the Council on Medical Education and Hospitals of the American Medical Association, or the American Physical Therapy Association.

Any person who possesses the aforementioned qualifications and who desires to be examined for licensure as a Physical Therapist in Kentucky shall make written application therefor to the Board, on forms to be provided by the Board, which shall be accompanied by an application fee of $25.00, no part of which shall be returned. If it appears from said application that the applicant possesses the qualifications required by this Act, such applicant shall be admitted to the next scheduled written examination in which his knowledge of anatomy, neuro-anatomy, kinesiology, physiology, pathology, psychology, neurology, medical ethics, technical procedures in the practice of physical therapy and such other subjects as the Board may determine to be necessary, shall be tested.

Examinations shall be held twice a year; in October and April, at Frankfort. Applicants who are admitted to the written examination may be granted temporary licenses which shall be valid until said applicants' examinations are graded and they are notified by the Board of their score thereon. All applicants who receive an average score of not less than 75 percentage points on the entire examination and not less than 65 percentage points on each subject in which examined shall be licensed as Physical Therapists and furnished with a certificate attesting thereto. This license shall be automatically renewed annually, without further examination, upon payment, on or before January 31 of each year, of a renewal fee to be fixed by the Board in an amount not to exceed $10.00. Licenses which are not renewed by that date shall lapse, except that the Board may reinstate a lapsed license upon payment of the renewal fee. Applicants who fail to receive a passing score on their examination shall not be licensed; but the Board may, by regulation, permit applicants to take the examination more than once.

Section 6. *Registration Without Examination.* The State Board of Physical Therapy may register as a physical therapist and may furnish a license without examination to any person who applies for registration on or before December 31, 1958, and who at the time of the passage of this Act, is practicing physical therapy in this State, and who possesses the qualifications required by this Act of all applicants for licensure as Physical Therapists in this State.

The Board may enter into reciprocity agreements with other states or foreign countries, providing for the mutual recognition of persons licensed or registered in Kentucky and such other states or foreign countries, if the standards of such other state or foreign country are determined by the Board to be as high as those of this State.

All applications for licensure without examination shall be accompanied by an application fee of $25.00, no part of which shall be returned.

Section 7. *Refusal, Revocation and Suspension of a License.* The Board, after due notice and hearing may refuse to license any applicant, and may refuse to renew the license of any licensed person, and may suspend or revoke the license of any licensed person

(1) Who indulges in excessive use of alcoholic beverages or who is addicted to the use of narcotic drugs;

(2) Who has been convicted of violating any state or federal narcotic law;

(3) Who is, in the judgment of the Board, guilty of immoral or unprofessional conduct;

(4) Who has been convicted of a felony or any crime involving moral turpitude;

(5) Who has obtained or attempted to obtain a license by fraud or material misrepresentation or who has made any other false statement to the Board;

(6) Who is guilty, in the judgment of the Board, of gross negligence in his practice of physical therapy;

(7) Who has been declared insane by a court of competent jurisdiction and has not thereafter been declared lawfully sane;

(8) Who has treated or undertaken to treat human ailments otherwise than by physical therapy as defined in this Act, or who has undertaken to practice independent of the prescription, direction or supervision of a licensed medical doctor.

(9) Who has failed or refused to obey any lawful order or regulation of the Board.

Section 8. *Expense of Board.* All fees collected by the Board shall be paid into the state Treasury and credited to an account for the payment of all lawful expenses of the Board. Each member of the Board shall be entitled to a per diem of $10.00 and his reasonable expenses for attending each meeting of the Board, and the Board may employ such clerical assistance and purchase such materials and supplies as it may deem necessary for the proper discharge of its duties, all of which shall be paid for out of the account hereby created, on vouchers certified by the Chairman.

Section 9. *Penalties.* Each violation of Section 2 of this Act shall constitute a misdemeanor and be punished by a fine of not less than

$50.00 nor more than $100.00 or by imprisonment for not less than 10 days nor more than 30 days, or both, for the first offense. Each subsequent violation thereof shall be punished by a fine of not less than $100.00 nor more than $300.00 or by imprisonment for not less than 30 days nor more than 90 days or both.

Any person who shall knowingly make a false statement in his application for licensure under this Act, or in response to any proper inquiry by the Board, shall be guilty of a misdemeanor and fined not less than $100.00 and not more than $1,000.00, or imprisoned for not less than 30 days nor more than 6 months, or both.

Section 10. *Appeals.* Any person aggrieved by an order of the Board denying, suspending or revoking his license may appeal to the Franklin Circuit Court within 30 days after entry of said order, for appropriate relief. On such appeal the scope of review shall be limited to an examination of the record of the Board's action for the purpose of determining whether the Board abused its discretion. It shall be the duty of the appellant to furnish the Court with a properly certified transcript of any evidence heard by the Board, and the Court may refuse to review any findings of fact made by the Board unless such a transcript is filed within 60 days after the filing of the appeal.

Section 11. *Short Title of This Act.* This Act may be cited as the "Physical Therapy Practice Act."

Committee Amendment of Senate Bill No. 49, on page 2, section 2, line 8, by inserting the following after the word shall: "apply to the practice of chiropractic or"

**SB 81:** AN ACT relating to trailer parks.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 219.120 of the Kentucky Revised Statutes is amended to read as follows:

(1) "Trailer coach" or "Mobile home" means any vehicle or similar portable structures used, or so constructed as to permit its being used, as a conveyance upon the public streets or highways, and designed to permit the occupancy thereof as a dwelling place for one or more persons;

(2) "Dependent trailer coach" or "Dependent mobile house" means a trailer coach which does not have toilet and bath or shower facilities;

(3) "Independent trailer coach" or "Independent mobile home" means a trailer coach with self-contained toilet and bath or shower facilities;

(4) "Trailer coach park" or "Park" means an area of land upon which two or more occupied trailer coaches are harbored, either free of charge or for revenue purposes, and shall include any building structure, tent, vehicle, or enclosure used or intended for use as a

part of the equipment of such trailer coach park; provided, however, that in any county containing a city of the first class, "Trailer coach park" or "Park" means an area of land upon which one or more occupied trailer coaches are harbored, either free of charge or for revenue purposes, and shall include any building structures, tent, vehicle, or enclosure used or intended for use as a part of the equipment of such trailer coach park;

(5) "Trailer coach space" or "Trailer coach site" means a plot of ground within a trailer coach park designated for the accommodation of one trailer coach;

(6) "Department" means the State Department of Health;

(7) "Board" means the State Board of Health.

**SB 94:** AN ACT relating to births and deaths.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 213.020 of the Kentucky Revised Statutes is amended to read as follows:

Each county in the state shall constitute a registration district for the purpose of carrying out the provisions of Chapter 213 of the Kentucky Revised Statutes.

Section 2. Section 213.030 of the Kentucky Revised Statutes is amended to read as follows:

(1) Except as otherwise provided in Subsection (3) of this section, the State Department of Health shall, with the approval of the local health officer or administrative assistant concerned, designate and commission an employee of each county and city-county health department as local registrar for the county.

(2) The local registrar may designate one or more employees of the county or city-county health department as deputy registrar. He may also appoint persons as deputy registrars who are not employees of the local health department if, in the opinion of the State Department of Health, such appointments are necessary. All such appointments shall be approved by the State Department of Health.

(3) In counties in which a county department of health is not maintained, the State Department of Health shall appoint a person to be the local registrar. Such person shall possess the training and qualifications prescribed by the State Department of Health, and shall hold office at the pleasure of the department; provided, however, that upon the establishment of a health department in said county, the State Department of Health shall notify the local registrar that his employment is terminated and order him to transfer all the records in his possession to the county department of health.

Section 3. Section 213.050 of the Kentucky Revised Statutes is amended to read as follows:

(1) The attending physician or midwife shall sign and file a certificate of birth with the local registrar of the district in which the birth occurred within ten days after the date of birth. The certificate shall be properly and completely filled out, and shall contain the date of signature, the address, and all the information required by Chapter 213 of the Kentucky Revised Statutes. No physician or midwife shall refuse to file or delay the filing of a birth certificate because obstetrical fees have not been paid. If the mother of a child informs the physician, midwife, or a person prescribed by Subsection (2) of this section that the child was born out of wedlock, the name of the father shall not be inserted in the birth certificate and the certificate of birth of said child shall be in the surname of the mother. However, the Director of the Division of Vital Statistics shall insert the name of the father and change the name of the child to the surname of the father if paternity is established in a legal action, or if an affidavit is filed stating that the affiant is the father of the child.

(2) If there is no attending physician or midwife, the father or mother of the child, or the head of the household, owner of the premises, or manager or superintendent of the public or private institution in which the birth occurred shall notify the local registrar, within ten days after the date of birth, of the fact of the birth.

(3) Upon receipt of notice of birth, as provided in Subsection (2) of this section, the local registrar shall then secure the necessary information to make a proper certificate of birth, and shall present it to the person who gave him notice of the fact of birth, who shall sign the certificate.

(4) The certificate of birth shall be prescribed and furnished by the State Department of Health and shall be designed with due consideration for national uniformity. All certificates shall be written legibly, in unfading ink, or typewritten. No certificate shall be held to be complete and correct that does not supply all items of information called for therein, or satisfactorily account for their omission. If a certificate of birth is incomplete, the registrar shall immediately notify the informant, and require him to supply the missing items if they can be obtained.

Section 4. Section 213.080 of the Kentucky Revised Statutes is amended to read as follows:

(1) The certificate of death shall be prescribed and furnished by the State Department of Health and shall be designed with due consideration for national uniformity. It shall be written legibly in unfading ink or typewritten. The personal and statistical particulars shall be authenticated by the signature of the informant, who may be any competent person acquainted with the facts. The statement of facts relating to the disposition of the body shall be signed by the undertaker or person acting as such.

(2) The medical certificate shall be made and signed by the physician, if any, last in attendance on the deceased, who shall specify the time in attendance, the time he last saw the deceased alive, and the hour of the day at which death occurred. He shall further state the cause or death, showing the course of disease or sequence of causes resulting in death, giving the primary cause and any contributory causes, and the duration of each. Indefinite and unsatisfactory terms, indicating only symptoms of disease or conditions resulting from disease, will not be sufficient for issuing a burial or removal permit. Any certificate not containing the terms defined by the Division of Vital Statistics shall be returned to the physician for correction and definition. Where death may be the result of either disease or violence, the causes shall be carefully defined, and if the result of violence its nature shall be stated, and whether it appears to have been accidental, suicidal or homicidal. In case of deaths in hospitals, institutions or away from home, the physician shall furnish the information required in this section and shall state where, in his opinion, the disease was contracted.

Section 5. Section 213.110 of the Kentucky Revised Statutes is amended to read as follows:

(1) The body of any person whose death occurs in this state shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, or removed from or into any registration district, until a permit for burial, removal or other disposition has been issued by the registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the State Board of Health to be infectious, contagious or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the state and local boards of health. Except as provided in Subsections (2) and (3) of this section, no burial or removal permit shall be issued by any registrar until a complete and satisfactory certificate and return of the death has been filed with him. If any certificate of death is incomplete or unsatisfactory, the registrar shall call attention to the defects in the return, and shall withhold issuing the burial or removal permit until they are corrected.

(2) A transit permit issued in accordance with the law and health regulation of the place where the death occurred, whether in or outside of this state, may be accepted by the local registrar of the district where the body is to be interred or otherwise finally disposed of, in lieu of a certificate of death, but he shall plainly enter on the face of the copy of the record made for return to the Division of Vital Statistics the fact that it was a body shipped in for interment and the actual place of death. If the transit permit was issued outside of this state the local registrar of the district where the body is to be finally disposed of shall issue a local burial permit, but if the transit permit

was issued in this state the registrar's burial or removal permit from the district where the death occurred may be accepted as authority for burial at the point of destination, without the issuance of a local burial permit.

(3) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body, unless the services of the coroner or the health officer are required or the State Board of Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body, the undertaker or person acting as such shall file with the local registrar or deputy registrar prior to interment, a provisional certificate of death, which shall contain the name, date and place of death of the deceased and an agreement to furnish within five days a complete and satisfactory certificate of death and the undertaker or person acting as such shall secure a complete and satisfactory certificate of death as provided in Section 213.100 of the Kentucky Revised Statutes and return it within five days from the date of burial to the local registrar of the district in which the death occurred.

(4) The undertaker shall deliver the burial permit to the sexton or person in charge of the place of burial, before interring the body, or, if the body is to be shipped by a transportation company, shall attach the transit permit, containing the registrar's removal permit, to the box containing the body. The transit permit shall accompany the body to its destination.

Section 6. Section 213.120 of the Kentucky Revised Statutes is amended to read as follows:

The form of the burial permit shall be prescribed and furnished by the State Department of Health.

Section 7. Section 213.160 of the Kentucky Revised Statutes is amended to read as follows:

(1) The superintendent, manager or other person in charge of any institution, public or private, to which persons resort for treatment of diseases or confinement, or are committed by process of law, shall, at the time of admission of any person to the institution, make a record of all the personal and statistical particulars relative to that person that are required in the form of the certificate provided for by this chapter, as directed by the Division of Vital Statistics. In case of persons admitted or committed for medical treatment of disease, the physician in charge shall specify, for entry in the record, the name of the disease and where, in his opinion, it was contracted. The personal particulars from the individual himself, if practicable, and if not they shall be secured in as complete a manner as possible from relatives, attending physicians and midwives.

(2) Institutions specified in Subsection (1) of this section shall prepare and forward a report on the first day of each week to the county health department, listing all births and deaths occurring during the preceding week. The birth list shall specify the date of birth, the name of the father and the maiden name of the mother. The death list shall specify the name of the deceased, the date of death, and the name of the funeral director removing the body for burial. The State Department of Health shall furnish each such institution with necessary forms for making such reports.

Section 8. Section 213.190 of the Kentucky Revised Statutes is amended to read as follows:

(1) The Division of Vital Statistics shall, upon request, furnish any applicant a certified copy of the record of any birth, death, or other record registered with such division as provided by law when the division is satisfied that the applicant has a direct, tangible and legitimate interest in the information or record requested. The applicant shall pay a fee of one dollar for a copy of a birth, death, or other certificate or search of the files if no copy is found. Any such certified copy shall be prima facie evidence of the facts therein stated.

(2) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay or other allowances of any person who has at any time served as a member of the Army, Navy, Marine Corps or Air Force of the United States.

**SB 92:** AN ACT relating to local public health.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 212.020 of the Kentucky Revised Statutes is amended to read as follows:

The State Board of Health shall appoint three intelligent and discreet licensed and practicing physicians residing in each county who, together with the county judge and one person appointed by the fiscal court of each county, shall constitute a local board of health for the respective counties in which they reside. In the event a county does not have three qualified licensed and practicing physicians residing therein, the State Board of Health may appoint a resident lay person in lieu thereof for each such vacancy. The members of the local board shall hold office for a term of two years from the date of their appointment, and until their successors are appointed. The members of the board shall receive no compensation for their services.

Section 2. Section 212.170 of the Kentucky Revised Statutes is amended to read as follows:

(1) Each city board of health shall appoint a health officer for the city. He may be removed at any time by the board.

(2) The county board of health of each county having a county department of health shall, subject to the approval of the State Department of Health, appoint a health officer who shall, subject to merit system provisions, hold office at the pleasure of both the county board and the State Department of Health.

(3) A health officer may, with the approval of the State Department of Health and the local boards of health concerned, serve in such capacity for more than one county.

(4) A health officer may appoint an administrative assistant for each county served by him subject to the approval of the State Department of Health. An administrative assistant shall exercise such duties as may be delegated to him by the health officer.

(5) A health officer may employ and fix the compensation of, by contract or otherwise, subject to the approval of the State Department of Health, all medical, technical, clerical, professional and other employees necessary for the maintenance and operation of the local health department in accordance with standards and merit system provisions prescribed by the State Department of Health.

(6) In the absence of a local health officer, the Commissioner of Health or his duly appointed representative shall serve as health officer for the county concerned.

Section 3. Section 212.230 of the Kentucky Revised Statutes is amended to read as follows:

(1) County, city-county, and district boards of health shall:

(a) Appoint a health officer and fix his salary subject to the approval of the State Department of Health;

(b) Hold a regular meeting at least once every three months and such other special or regular meetings as may be desired and keep full minutes of all the proceedings in a book provided for this purpose;

(c) Adopt, except as otherwise provided by law, such rules and regulations not in conflict with the rules and regulations of the State Board of Health, as may be necessary to protect the health of the people or to effectuate the purposes of this Act or Chapter 212 of the Kentucky Revised Statutes or any other law relating to public health;

(d) Act in a general advisory capacity to the health officer on all matters relating to the local department of health;

(e) Hear and decide appeals from rulings, decisions, and actions of the local health department or health officer, where the aggrieved party makes written request therefor to the board within thirty days after the ruling, decision, or action complained of;

(f) Perform all other functions necessary to carry out the provisions of law and the rules and regulations adopted pursuant thereto, relating to local boards of health;

(2) Except as otherwise provided in Subsection (1) of this section, all powers and authority of the local board of health under existing statutes are transferred to the county department of health.

Section 4. Section 212.245 of the Kentucky Revised Statutes is amended to read as follows:

County, city-county, and district health departments may:

(1) Utilize available services, facilities, equipment and personnel of the State Department of Health or of the United States Public Health Service upon such terms of payment or reimbursement as are agreed on by the department and the State Department of Health or the United States Public Health Service;

(2) Contract for services not otherwise available;

(3) Provide for the public health training and instruction of employes and compensate and defray the reasonable expenses of said employes while they are pursuing public health training courses approved by the State Department of Health;

(4) Establish or contribute to a retirement system or fund for employes of the department, including any retirement system for state employes;

(5) Issue and require the heads of families and other persons to execute such orders as it considers expedient to prevent the outbreak and spread of communicable diseases, and to this end bring the infected population under prompt and proper treatment;

(6) Issue written orders directed to the owner or occupant of any property, or to any person, firm or corporation whatever, commanding, within the time and manner specified in the order, compliance with applicable public health laws of this state and all regulations of the State Board of Health or the county board of health. Notwithstanding the provisions of this section and Section 212.210 of the Kentucky Revised Statutes, any health officer may institute and maintain mandatory or prohibitory injunction proceedings in the appropriate circuit courts of this state to abate nuisances that are or may be a menace to the health of the people of the state or community, and to compel compliance with the public health laws of this state and the rules and regulations of the State Board of Health and the county board of health and the orders described in this section or in Section 212.210 of the Kentucky Revised Statutes;

(7) Through its health officers, representatives and agents, enter upon any premises when necessary for the purpose of making inspections and investigations and view evidence and interrogate persons to the extent required in the performance of their duties and responsibilities. The department or the health officer thereof may issue subpoenas, subpoena duces tecum and all necessary process in proceedings brought before or initiated by the department or board, and such

process shall extend to all parts of the Commonwealth. Service of process may be made by registered mail or in the manner prescribed by the Rules of Civil Procedure;

(8) Provide administrative, investigative and clerical services required by the local board of health;

(9) Cooperate with other health departments, agencies and organizations in matters relating to public health;

(10) Elect coverage under the state's workmen's compensation laws with the approval of the State Department of Health;

(11) Except as otherwise provided by law, do all other things reasonably necessary to protect and improve the health of the people.

Section 5. Section 212.260 of the Kentucky Revised Statutes is amended to read as follows:

(1) Every city health officer shall serve as executive officer and be an ex-officio member of the city board of health.

(2) The health officer of a county that does not have a county department of health shall enforce the rules and regulations of state and county boards of health.

(3) The health officer of a county that has formed a county department of health shall:

(a) Devote his entire time to the duties of his office, and shall not engage in the private practice of medicine;

(b) Be secretary of the county board of health and keep full minutes of the proceedings of the county board of health in a book provided for that purpose;

(c) Be the chief administrative officer of the county health department.

(4) The duties of the health officer of a district department of health shall be the same as the duties of a health officer of a county department of health, except that his activities, authority and jurisdiction shall extend to all of the counties whose boards of health govern the district department of health. He shall divide his time devoted to the performance of his duties reasonably and equitably between the counties composing the district over which he has jurisdiction, in accordance with the rules and regulations adopted by the governing body of the district, which rules and regulations must take into consideration the relative expenditure of money to maintain the district department of health spent by the counties composing the district.

Section 6. Section 212.660 of the Kentucky Revised Statutes is amended to read as follows:

(1) After the establishment of a city-county health department as provided in Section 212.640 of the Kentucky Revised Statutes, the

city-county board of health shall appoint a health officer, subject to the approval of the State Department of Health. Other persons necessary for the work of the city-county health department shall be appointed in the same manner and subject to the same conditions as are other county health department employes.

(2) Any city health department employe who is covered by a pension fund for civil service employes, as authorized by Section 90.400 of the Kentucky Revised Statutes or any other section of the Kentucky Revised Statutes, prior to the consolidation of the city-county health department, may elect to continue such coverage thereafter in lieu of electing coverage under the Kentucky Employes Retirement System (Chapter 110 of the Acts of 1956 or amendments thereto); provided, however, that all new employes of such consolidated city-county health department shall thereafter be covered by the Kentucky Employes Retirement System.

Section 7. Section 212.715 of the Kentucky Revised Statutes is amended to read as follows:

No person shall fail or refuse to observe or obey a written order of any board of health, department of health, or health officer, issued pursuant to the provisions of law or regulations adopted thereunder.

Section 8. A new section of the Kentucky Revised Statutes is created to read as follows:

Monies derived in the manner provided by Sections 212.720 to 212.730 of the Kentucky Revised Statutes may be expended for the construction, alteration or modification of a public health center or other suitable housing facility for the county or city-county health department.

Section 9. Section 212.990 of the Kentucky Revised Statutes is amended to read as follows:

(1) Any owner or occupant who fails to comply with an order made under the provisions of Subsection (1) of Section 212.210 of the Kentucky Revised Statutes shall be fined not less than ten dollars nor more than one hundred dollars, and each day's continuance of the nuisance, source of filth or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.

(2) Any person who violates Section 212.715 of the Kentucky Revised Statutes as amended herein or any rule or regulation adopted by any city, county, or city-county board of health (except as otherwise provided by Subsection (3) of this section for counties containing cities of the first class) shall be fined not less than ten dollars nor more than one hundred dollars for each day the violation continues.

(3) The violation of any health regulation promulgated by the city-county board of health or of any order made by the board under

Sections 212.350 to 212.620 of the Kentucky Revised Statutes, directing the abatement of a nuisance, source of filth or cause or probable cause of sickness, is hereby declared to be a misdemeanor, and any person, firm or corporation, or member of a firm or officer or director of a corporation, upon conviction thereof shall be fined not less than five dollars nor more than one hundred dollars for each such offense. If any offense is continued for more than one day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed therefor.

Section 10. Subsection (2) of Section 212.180 and Sections 212.200, 212.280, 212.290, 212.300, 212.310, 212.320, 212.330, and 212.340 of the Kentucky Revised Statutes are repealed.

Committee on Claims reported **SR 8, SR 20** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SR 8: A JOINT RESOLUTION AUTHORIZING CIVIL ACTION AGAINST THE METROPOLITAN SEWER DISTRICT OF JEFFERSON COUNTY, KENTUCKY, AND/OR AGAINST THE COMMONWEALTH OF KENTUCKY, DEPARTMENT OF HIGHWAYS, IN THE INTEREST OF NORMAN THOMAS GNAU AND HIS INSURERS, PENNSYLVANIA FIRE INSURANCE COMPANY AND OHIO CASUALTY INSURANCE COMPANY.

WHEREAS, it appears by affidavit that said Norman Thomas Gnau, on the 22nd day of January, 1957, was driving his car on Old Shepherdsville Road, Jefferson County, Kentucky, at 5:56 P.M. and during the hours of darkness, when he came upon an unlighted obstruction placed across said road, being a state highway, said obstruction having been placed there by the Metropolitan Sewer District. The said Norman Thomas Gnau, in seeking to avoid collision with the unlighted barricade, struck another car going in the opposite direction. The damages incurred by said Norman Thomas Gnau and his insurers, Pennsylvania Fire Insurance Company and Ohio Casualty Insurance Company, were and are in the total amount of Fifteen Thousand ($15,000.00) Dollars, said claims individually and respectively being in the amounts of $6338.80, $2200.00 and $6461.20.

WHEREAS, it appears by affidavit that this accident may have occurred as proximate result of negligence on the part of the Commonwealth, or its employees, and/or on the part of the Metropolitan Sewer District of Jefferson County, Kentucky, and/or its employees.

WHEREAS, the alleged damages exceeds the jurisdictional amount of the Board of Claims;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That Norman Thomas Gnau and his insurers, Pennsylvania Fire Insurance Company and Ohio Casualty Insurance Company, and each of them, as their interests do appear, is authorized to sue the Commonwealth of Kentucky, Department of Highways, and/or the Metropolitan Sewer District of Jefferson County, Kentucky, in the Jefferson Circuit Court, for damages arising out of an accident which occurred on the 22nd day of January, 1957, near Louisville in Jefferson County, allegedly involving possible negligence on the part of the Commonwealth, or its employees and/or the Metropolitan Sewer District of Jefferson County, Kentucky, or its employees; that the action shall be commenced within one year from the effective date of this Resolution, and that no plea of limitation shall be interposed if commenced within that time:

Section 2. That such action or actions shall be for a total sum not in excess of $15,000.00:

Section 3. That the Attorney General of the Commonwealth of Kentucky and/or the attorney for Metropolitan Sewer District of Jefferson County, Kentucky, may investigate the claims and settle them or any of them before or after suit is filed if either deems it advisable:

Section 4. That any amount recovered in this action, either by settlement or judgment, shall be paid by check drawn against the Commonwealth of Kentucky, Road Fund, in the State Treasury upon warrant drawn by the Commissioner of Finance upon the State Treasurer, and/or the Metropolitan Sewer District of Jefferson County, Kentucky.

Section 5. That final judgment in the action may be appealed by either party to the Court of Appeals in the manner provided in the Rules of Civil Procedure; and

Section 6. That no statement in this Resolution shall be considered by either the court or jury as an admission of negligence upon the part of the Commonwealth or Metropolitan Sewer District, and this Resolution shall not be introduced as evidence, nor commented upon by counsel in presence of the jury.

**SR 20:** Resolution authorizing Helen Klinglesmith, a female white person over the age of twenty-one to sue the Commonwealth of Kentucky and the State Department of Highways, or either of them.

WHEREAS: On the 4th day of November, 1954, at or about the hour of 8:30 A.M., Helen Klinglesmith of Louisville, Jefferson County, Kentucky, was operating her 1952 Chevrolet automobile in a northwardly direction on Preston Highway in Jefferson County when her car was caused to come to a stop at a cross-walk opposite Prestonia School by a traffic officer for the purpose of permitting school children to cross over Preston Highway and while her car was standing in a still position, a truck owned and operated by the State Department of

Highways of the Commonwealth of Kentucky and particularly driven by a chauffeur by the name of Mudd, said truck was caused to and did run into and collide with the rear end of her 1952 Chevrolet automobile and at the time the said Helen Klinglesmith who is married and is a housewife was in a pregnant condition and by reason of the said collision she was caused to be seriously, painfully and permanently injured and as well as sustaining a severe shock to her nerves and nervous system and by reason thereof she further suffered a miscarriage causing her to lose her child.

WHEREAS: It is claimed that Helen Klinglesmith was at the time and place properly operating her car and obeying the laws of the Commonwealth and that the truck driver who was a servant, agent and employee of the Commonwealth of Kentucky and the State Department of Highways of the Commonwealth of Kentucky at the time and place of the collision hereinabove mentioned was not properly operating the truck he was driving or obeying the law, in that he was operating said truck then and there in a careless and reckless manner and without due regard and observation for the vehicles immediately ahead of him on the highway and particularly the one involved herein being stopped by an officer of the law to permit children to cross the highway.

WHEREAS: It is claimed that the said Helen Klinglesmith had to undergo medical and doctor's treatment and that the loss of her unborn child which is her greatest loss and which is a serious and permanent shock to her body and that she has suffered great mental anguish since that time.

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

That Helen Klinglesmith be and she is hereby authorized and permitted to sue the Commonwealth of Kentucky and the Department of Highways of the Commonwealth of Kentucky, or either, in the Jefferson Circuit Court the County in which the accident occurred, for damages; for physical and mental pain and suffering for the loss of her unborn child, by reason of the said collision being the proximate cause of her miscarriage; for her medical and doctor's care; for shock to her nerves and nervous system; for loss of her personal property by reason of the damage to her automobile which was caused and brought about by the negligence and carelessness of the servant, agent and employee of the Comomnwealth of Kentucky and State Department of Highways of the Commonwealth of Kentucky, or either. Said suit shall be for an amount not exceeding the sum of twenty-five thousand dollars ($25,000.00).

No plea of limitation shall be interposed.

The Attorney General of the Commonwealth of Kentucky may investigate this claim against the Commonwealth of Kentucky and the State Department of Highways of the Commonwealth of Kentucky, or either herein, and settle said claim before suit is filed, if he deems advisable.

Any amount recovered in said claim, either by compromise, settlement or judgment, shall be paid out of the general fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer of the Commonwealth of Kentucky.

In the event judgment is rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

STATE OF KENTUCKY )
)SS.
COUNTY OF JEFFERSON)

AFFIDAVIT

Affiant, Helen Klinglesmith, states that she is the wife of Guy W. Klinglesmith and that she is a resident of Jefferson County, Kentucky, residing at 6009 Linda Road and that she is thirty-two years of age.

Affiant states that on November 4, 1954, at or about the hour of 8:30 A.M. and while operating a 1952 Chevrolet automobile, she was caused to bring her car to a stop by reason of a traffic officer signaling her to do so at a cross-walk leading across Preston Highway to the Prestonia School and for the purpose of permitting school children to cross over.

Affiant states that while her car was standing still, a truck of the State Highway Department, operated by a Mr. Mudd, came around the corner behind her car and before stopping caused this truck to impact into the back of her car causing it to be considerably damaged and to depreciate in value to the extent of $300.00.

Affiant states that at the time of the collision, she was two and one-half months pregnant and as a result of the collision, she was caused to have a miscarriage losing her child and as a further result she suffered personal injuries to herself and was under medical and hospital care.

Affiant states that as a result of the foregoing and all of which, she was damaged in the sum of $25,000.00 and that she feels she is entitled the right to recover these damages from the Commonwealth of Kentucky and she files herewith this affidavit with her resolution requesting the legislature to pass upon same and grant her right to sue the Commonwealth of Kentucky.

Further affiant sayeth not.

Helen Klinglesmith

HELEN KLINGLESMITH

Subscribed and sworn to before me by Helen Klinglesmith, this 18th day of January, 1958.

My Commission expires June 24, 1961.

Ralph G. Stone.

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NOTARY PUBLIC, JEFFERSON COUNTY, KENTUCKY

Committee on Judiciary reported **SB 23, SB 118, SB 133** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 23:** AN ACT relating to grand jurors and petit jurors.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 29.390 of the Kentucky Revised Statutes is amended to read as follows:

(1) Grand jurors and petit jurors in circuit court shall each be paid ten dollars per day for jury service. Persons whose names are on the jury list for jury service in circuit court, or are summoned under KRS 29.280 to supply a deficiency, who appear in person in court in response to summons, who reside outside the corporate limits of the city in which the court sits, and who do not claim exemption or ask to be relieved from jury service, shall receive ten dollars per day for each day they are required to be and are in attendance, even though they are now sworn or accepted for jury service.

(2) When kept together overnight in custody of the sheriff, petit jurors shall receive five dollars additional for each night they are kept together.

(3) In courts inferior to the circuit court, except in counties containing a city of the second class, each juror shall be paid fifty cents for each case in which he serves, but if the same juror serves on more than two juries in one day he shall not be allowed a fee for the cases in excess of two.

(4) In courts inferior to the circuit court, in counties containing a city of the second class, each juror shall be paid one dollar and fifty cents for each case in which he serves, but if the same juror serves on more than two juries in one day he shall not be allowed a fee for the cases in excess of two.

**SB 118:** AN ACT relating to juvenile court.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

A new section of Chapter 208 of the Kentucky Revised Statutes is created to read as follows:

If the court places a child on probation, it may require the child's legal parent or guardian to post bond, of not more than five hundred dollars, conditioned on the faithful discharge of the conditions of the child's probation. If the child violates the conditions of probation, or commits another public offense, the court may declare the bond forfeited. Proceeds shall be used primarily to pay for damage that may have resulted from the child's act. Excess shall be paid into the county treasury.

**SB 133:** AN ACT relating to terms of court for the thirty-fourth judicial district.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The preamble and subsection (34) of Section 23.050 of the Kentucky Revised Statutes is amended to read as follows:

The regular term of each court shall commence in each county at the following named time, and continue, if the business requires it, the number of days hereinafter prescribed:

(34) Whitley County, at Williamsburg, on the second Monday in January, the second Monday in April, the second Monday in June, and the first Monday in October, twenty-four juridical days each.

McCreary County, at Whitley City, on the third Monday in February, twenty-four juridical days; the second Monday in May, eighteen juridical days; the first Monday in September, twenty-four juridical days, and the second Monday in November, twenty-four juridical days each.

Committee on State and County Government reported **SB 43, SB 106, SB 17, SB 46** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 43:** AN ACT relating to gas distribution systems.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 74.400 of the Kentucky Revised Statutes is amended to read as follows:

(1) Any county court, except in counties containing a city of the first class, upon petition of seventy-five resident freeholders of a water district heretofore organized under the provisions of KRS 74.010, may authorize said water district to acquire, develop, maintain and operate a system for the distribution of natural, artificial or mixed gas. The distribution system may serve more than one county. The petition shall describe the territory intended to be included in the area to be served and shall set out the reasons a gas distribution system is needed.

(2) When the petition is filed, the court shall give notice of the filing by publication in three issues of a newspaper of general circulation in the counties proposed to be served, or if there is no newspaper

in a county proposed to be served, by posting notices in three public places in that county. Within thirty days after the publication of notices, any resident of the area proposed to be served may file objections, and the court shall set the case for hearing within ten days. If the court finds the establishment of a gas distributing system reasonably necessary for the public health, convenience, and comfort of the residents, it shall make an order authorizing the establishment or acquisition of the gas distributing system.

(3) The court may in its order strike off any part of the territory that the testimony shows will not be benefited by the creation of the distribution system. If the court does not find that the gas distribution system is necessary it shall dismiss the petition. Either party may appeal to the circuit court for an retrial, and from the circuit to the Court of Appeals, as provided by law.

**SB 106:** AN ACT relating to County Law Libraries.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 172.180 of the Kentucky Revised Statutes is amended to read as follows:

Any county containing a city of the third or fourth class may adopt the following method of financing the cost of operation and maintenance of the county law library, in lieu of the method set out in KRS 172.130:

(1) Upon petition of three-fourths of the duly licensed and practicing attorneys resident in the county addressed to the circuit judge of the county, to the effect that they, as officers of the various courts of the county, recognize the need of a more adequate county law library, there being attached to said petition an attested copy of a resolution of the fiscal court of the county endorsing the adoption of this optional method of financing the cost of operation and maintenance of the county law library, the circuit judge shall enter an order upon the official order book of the circuit court of the county noting that said optional plan for the financing of the cost of operation and maintenance of the county law library has been adopted.

(2) The order shall set forth the names of each duly licensed and practicing attorney signing said petition, and the county court order book and page number containing the resolution of the fiscal court.

(3) The order shall direct the following:

(a) That the clerk of the circuit court shall forthwith cause to be delivered to the clerk of every court in the county, including quarterly, county, justices', and city or police courts, a certified copy of the order;

(b) That upon receipt of the order by the clerks of said courts there shall be taxed as costs in all actions, except examining trials and felony trials, thereafter instituted in said courts the following fee, which shall be designated as county law library fee: in quarterly, county, justices', and city or police courts, the sum of fifty cents; in circuit courts, on all civil actions, the sum of one dollar; and on all misdemeanor trials, the sum of fifty cents; and

(c) That the clerks of the various courts shall at the end of each month, pay all sums collected as county law library fee in their respective courts, during the preceding month, to the trustees of the county law library, and the clerks shall make a full report with said payment, and receive a receipt for all payments.

Section 2. Section 172.190 of the Kentucky Revised Statutes is amended to read as follows:

Upon adoption of the optional method of financing a county law library provided in KRS 172.180, the funds derived from the county law library fee shall be designated county law library fund, and said fund shall be under the sole and full control of the trustees of the county law library.

**SB 17:** AN ACT relating to war memorials, amending KRS 105.010.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 105.010 of the Kentucky Revised Statutes is amended to read as follows:

(1) Each city or county is authorized to establish or erect a war memorial to commemorate the sacrifices of its citizens who are serving or have served in the Armed Forces of the United States during any war. A city shall not be required to locate such memorial within the city limits.

(2) A city and county are authorized to undertake the establishment or erection of such memorial jointly, and to share the expense thereof in such proportions as may be agreed upon between the governing bodies of the city and county.

(3) Each city or county, either separately or jointly, in order to carry out the establishment and erection of a war memorial, is authorized to buy, accept as a gift, or acquire in any other legal manner, including eminent domain, a cemetery to be used for memorial purposes, provided that in no event shall said city or county continue to sell lots in said cemetery for burial purposes and provided further that said city or county is authorized to care for and supervise burials on such lots in such cemetery as have been sold by the cemetery association prior to acquisition by the city or county.

(a) Each city or county, either separately or jointly, is authorized to use prison labor from the city or county for the purpose of keeping such cemetery in proper condition.

**SB 46:** AN ACT Relating to Compensation of Guards for Safekeeping of Prisoners.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

KRS 70.610 be amended to read as follows:

KRS 70.610 **Guards for safekeeping prisoner.**

When the county judge believes that the safekeeping of a prisoner confined in his county under a charge of felony requires that a guard be kept over him, he shall make the order of record to that effect, and direct the number of guards to be summoned, by whom, and under whose control they shall be placed. If the circuit court is in session in the county, the circuit judge shall exercise the power conferred upon the county judge by this section. Each guard so summoned and performing duty shall be allowed the compensation fixed by the court in each specific instance, said compensation not to exceed Ten Dollars ($10.00) per day.

Committee on Transportation and Highways reported **SB 62, SB 28** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 62:** AN ACT relating to motor vehicle equipment.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. (1) No person shall sell any new motor vehicle in this state after July 31, 1958 nor shall any person apply for registration of a new motor vehicle in this state after that date, unless such motor vehicle is equipped with two self-operating windshield wipers installed thereon and in good operating condition. Such wipers shall be installed one on the left half of the windshield and one on the right half and shall be capable of effectively clearing the windshield of all rain, sleet, snow, spray, slush or other vision-impairing substances which may be encountered in any driving conditions.

(2) Such windshield wipers shall provide clear vision through the windshield for the driver and shall maintain a constant speed, selected by the vehicle operator, regardless of the speed of the vehicle and shall be operated under all conditions under which the driver's range of vision is impaired by any element of weather and wherein operation of the wiper would improve the driver's range of vision.

(3) The provisions of this Section shall not apply to motorcycles.

Section 2. Section 189.110 of the Kentucky Revised Statutes is amended to read as follows:

No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, sidewings, side or rear windows of the vehicle, other than a paper required to be so displayed by law. Nor shall any person drive a motor vehicle within which are placed any dangling objects so positioned as to obstruct the operator's vision in any direction.

Section 3. Any person who violates any of the provisions of this Act shall be fined not less than ten dollars nor more than one hundred dollars for each offense.

**SB 28:** AN ACT relating to traffic regulations, amending KRS 189.140.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 189.140 of the Kentucky Revised Statutes is amended to read as follows:

Every motor vehicle with an internal combustion, steam or air motor shall be equipped with a suitable and efficient muffler. No person shall operate a motor vehicle with the muffler cut out or removed, or equipped with any motor or exhaust system apparatus capable of creating unnecessary sound or noises, such as a Hollywood muffler, bypass, gutted muffler, straight pipe, pinched tailpipe or whistle; nor shall any person cause unnecessary noise or sound by retarding or advancing the timing of the spark in the ignition system.

## Calendar

**SB 85, SB 37, SB 108, SB 73, SB 107, SB 77, HB 2** were taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that they be read by title only. Agreed by a majority of the members elected. Ordered placed in Orders of the Day.

## Orders of the Day

**SB 31** taken from the Orders of the Day and ordered read at length for the third time. Senator Clay moved that it be read by title only. Agreed by a majority of members elected. Senator Clay moved that **SB 31** be put to passage. Agreed.

On roll call, the vote was: Yeas, 38—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Young; Nays, 0.

**SB 31** was passed and the title agreed to.

**SB 27** taken from Orders of the Day and ordered read at length for the third time. Senator Howard moved that it be read by title only. Agreed by a majority of members elected. Senator Howard moved that **SB 27** be put to passage. Agreed.

On roll call, the vote was: Yeas, 33—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Knuckles, McCann, Miller, Overbey, Richmond, Robinson, Van Hoose, Ware, Warinner, Young; Nays, 2—Reuscher, Willis.

**SB 27** was passed and the title agreed to.

Senator Howard moved that the vote by which said bill was passed be reconsidered and the motion be laid on the table. Agreed.

## Motions

Senator Overbey moved suspension of the Rules for the purpose of granting Seldon R. Glenn the privilege of the floor. Agreed.

## Orders of the Day

**SB 22** taken from the Orders of the Day and ordered read at length for the third time. Senator Howard moved that it be read by title only. Agreed by a majority of members elected. Senator Howard moved that **SB 22** be put to passage. Agreed.

Senator Howard offered an amendment to **SB 22.**

Senator Howard moved that **SB 22** be recommitted. Agreed by voice vote.

**SB 54** taken from the Orders of the Day and ordered read at length for the third time. Senator Jackson moved that it be read by title only. Agreed by a majority of members elected. Senator Jackson moved that **SB 54** be put to passage. Agreed.

Senator Van Hoose offered an amendment to **SB 54.**

Senator Jackson moved that **SB 54** be recommitted. Agreed.

Senate Committee Substitute for **HB 1** taken from the Orders of the Day and ordered read at length for the third time. Senator Bassett moved that it be read by title only. Agreed by a majority of members elected. Senator Bassett moved that the Senate Committee Substitute for **HB 1** be adopted.

Senators Young and Bassett requested a roll call on this motion and on roll call, the vote was: Yeas, 23—Anggelis, Bassett, Blake, Byers, Cornett, C. H. Davis, Mrs. J. Harry Davis, Duncan, Fields, Greene, Hamilton, Howard, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, Overbey, Richmond, Robinson, Van Hoose, Warinner; Nays, 15—Blue, Bonn, Clay, Duffy, Francis, Freeman, Hickerson, Kidwell, McCann, Melton, Miller, Reuscher, Ware, Willis, Young. The Senate Committee Substitute for **HB 1** was adopted.

Senator Bassett moved the Previous Question on **HB 1** as amended by way of Senate Committee Substitute.

Senators Young and Miller requested a roll call on the motion for the Previous Question.

On roll call, the vote was: Yeas, 23—Anggelis, Bassett, Blake, Byers, Cornett, C. H. Davis, Mrs. J. Harry Davis, Duncan, Fields, Greene, Hamilton, Howard, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, Overbey, Richmond, Robinson, Van Hoose, Warinner; Nays, 15—Blue, Bonn, Clay, Duffy, Francis, Freeman, Hickerson, Kidwell, McCann, Melton, Miller, Reuscher, Ware, Willis, Young. The motion was passed and the Previous Question was applied.

On roll call, the vote was: Yeas, 24—Anggelis, Bassett, Blake, Byers, Cornett, C. H. Davis, Mrs. J. Harry Davis, Duncan, Fields, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, Overbey, Richmond, Robinson, Van Hoose, Warinner; Nays, 5—Bonn, Duffy, McCann, Ware, Young. Senate Committee Substitute for **HB 1** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

## Introductions

Senator McCann moved to suspend the Rules for the purpose of introducing a bill. Agreed.

**SB 159,** by Senators McCann, Young, Miller, Duffy, and Bonn: AN ACT relating to the State Department of Health.

## Motions

Senator Lucas moved to suspend the Rules for the purpose of appointing Honorary Pages in the Senate. Agreed.

Senator Lucas moved that Mary Olanne Ford be made an Honorary Page of the Senate. Agreed.

Senator Young moved that James O. Ware be made an Honorary Page of the Senate. Agreed.

Senator Ware moved that Gary Krantz, Michael Fleming, Marc Reardon, Richard Marting, and David Brown be made Honorary Pages of the Senate. Agreed.

Senator Blue moved that Stephen Anthony Pride, Lorie Annette Honor, Allen Lee Shelton, Sherryl Anne Smith, Sarah Eloise Blue, Lee Allen Bennett, Lisa Elaine Clark be made Honorary Pages of the Senate. Agreed.

Senator Kelly moved that Mary Frances Marsh be made an Honorary Page of the Senate. Agreed.

Senator Howard moved that Laura Lynn Settles, Joe Hays Settles, Elizabeth Ann Settles, Carl Howell, Pamela Sue Howell, Karen Lanz, Bobby Lanz, Terry Sue Lanz, Frank J. Lanz, Leslie Kay Lanz, Kenneth French, Darlene French, Dianne French, Denise French be made Honorary Pages of the Senate. Agreed.

### Reference of Bills

The President announced referral of the following bills:

Revenue and Taxation: **SB 134, SB 139, SB 141.**

State and County Government: **SB 135.**

Labor and Industry: **SB 136, SB 145.**

Ways and Means: **SB 137, SB 143.**

Agriculture: **SB 138.**

Education: **SB 140.**

Health and Welfare: **SB 142.**

Judiciary: **SB 144.**

Claims: **SR 36, SR 37.**

Senator Bassett moved adjournment until 10:00 a.m., Friday, February 7, 1958. Agreed.

## FRIDAY, FEBRUARY 7, 1958

## TWENTY-SIXTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Dr. Fred T. Moffatt of the First Baptist Church of Frankfort.

The roll was called. All members present except Senators Bonn and Overbey, who were granted leave of absence on motion of Senator McCann.

The reading of the Journal for Thursday, February 6, 1958, dispensed with and the same approved on motion of Senator McCann.

### Motions

Senator Richmond, seconded by Senator Lucas, moved that **SB 129** be recommitted at the request of the majority of the members of the Committee on Labor and Industry for further study.

Senators Fields and Cornett requested a roll call on motion to recommit **SB 129.**

On roll call, the vote was: Yeas, 28—Anggelis, Bassett, Blue, Byers, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Francis, Greene, Hamilton, Howell, Jackson, Johnson, Kelly, Kidwell, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis, Young; Nays, 2—Clay, Fields.

Motion carried to recommit **SB 129.**

### Introductions

**SB 160,** by Senator Freeman: AN ACT relating to the standard of time, providing for an election thereon.

### Motions

Senator Miller moved to suspend the Rules for the purpose of appointing Honorary Pages in the Senate. Agreed.

Senator Miller moved that Jonathan Scott Miller and Stephanie Renwick Miller be made Honorary Pages of the Senate. Agreed.

Senator Robinson moved that Harriet Elaine Warinner be made an Honorary Page of the Senate. Agreed.

### Calendar

**SB 84, SB 13, SB 75, SB 67, SB 50, SB 114, SB 60, SB 49, SB 81, SB 94, SB 92, SR 8, SR 20, SB 23, SB 118, SB 133, SB 43, SB 106, SB 17, SB 46, SB 62, SB 28,** were taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that they be read by title only. Agreed by a majority of the members elected. Ordered placed in the Orders of the Day.

### Orders of the Day

**SB 85** taken from the Orders of the Day and ordered read at length for the third time. Senator Clay moved that it be read by title only. Agreed by a majority of the members elected. Senator Clay moved that **SB 85** be put to passage. Agreed.

On roll call, the vote was: Yeas, 33—Anggelis, Bassett, Blake, Blue, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Howard, Howell, Jackson, Kelly, Kidwell, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 85** was passed and the title agreed to.

Senator Blake moved that the vote by which said bill was passed be reconsidered and the motion be laid on the table. Agreed.

### Motions

Senator Ware moved to suspend the Rules for the purpose of appointing Honorary Pages in the Senate. Agreed.

Senator Ware moved that Stuart Garrett be made an Honorary Page of the Senate. Agreed.

Senator Hamilton moved that Betty P. Cline, Mary Susan Cline, James Edgar Ruth, and Victoria Lynn Ruth be made Honorary Pages of the Senate. Agreed.

Senator Jackson moved that Rebecca Ann Mathews, and Evelyn Carpenter be made Honorary Pages of the Senate. Agreed.

### Orders of the Day

**SB 37** taken from the Orders of the Day and ordered read at length for the third time. Senator Anggelis moved that it be read by title only. Agreed by a majority of members elected. Senator Anggelis moved the Previous Question on **SB 37.** Agreed.

On roll call, the vote was: Yeas, 33—Anggelis, Bassett, Blake, Blue, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Howard, Howell, Jackson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 37** was passed and the title agreed to.

**SB 108** taken from the Orders of the Day and ordered read at length for the third time. Senator Richmond moved that it be read by title only. Agreed by a majority of members elected. Senator Richmond moved the Previous Question on **SB 108.** Agreed.

On roll call, the vote was: Yeas, 34—Anggelis, Bassett, Blake, Blue, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 1—Duncan.

**SB 108** was passed and the title agreed to.

**SB 73** taken from the Orders of the Day and ordered read at length for the third time. Senator Kelly moved that it be read by title only. Agreed by a majority of members elected. Senator Kelly moved the Previous Question on **SB 73.** Agreed.

On roll call, the vote was: Yeas, 32—Anggelis, Bassett, Blake, Blue, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Robinson, Van Hoose, Ware, Warinner, Willis; Nays, 1—Richmond.

**SB 73** was passed and the title agreed to.

### Introductions

Senator Warinner moved to suspend the Rules for the purpose of introducing bills. Agreed.

**SB 161,** by Senator Warinner: AN ACT relating to absent voting.

**SB 162,** by Senator Duncan: AN ACT relating to establishment of public street lighting districts.

### Orders of the Day

**SB 107** taken from the Orders of the Day and ordered read at length for the third time. Senator Richmond moved that it be read by title only. Agreed by a majority of the members elected. Senator Richmond moved the Previous Question on **SB 107.** Agreed.

On roll call, the vote was: Yeas, 33—Anggelis, Bassett, Blake, Blue, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Howard, Howell, Jackson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 107** was passed and the title agreed to.

**SB 77** taken from the Orders of the Day. Senator Bassett moved that consideration of said bill be deferred and that it retain its place in the Orders of the Day. Agreed.

**HB 2** taken from the Orders of the Day and ordered read at length for the third time. Senator Bassett moved that it be read by title only. Agreed by a majority of members elected. Senator Bassett moved the Previous Question on **HB 2.** Agreed.

On roll call, the vote was: Yeas, 35—Anggelis, Bassett, Blake, Blue, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**HB 2** was passed and the title agreed to.

### Introductions

Senator Knuckles moved to suspend the Rules for the purpose of introducing bills. Agreed.

**SB 163**, by Senator Knuckles: AN ACT relating to hunting and fishing.

**SB 164**, by Senator Knuckles: AN ACT relating to school board members.

### Recess

Senator Bassett moved that the Senate do now recess for thirty minutes. Agreed. At the appointed hour, the President of the Senate called the Senate to order.

### Reference of Bills

The President announced referral of the following bills:

State and County Government: **SB 146, SB 153.**

Revenue and Taxation: **SB 147.**

Education: **SB 148, HB 21.**

Municipalities: **SB 149, HB 15, HB 42, HB 60.**

Suffrage, Elections, and Constitutional Amendments: **SB 150, SB 151.**

Ways and Means: **SB 152, SB 157.**

Labor and Industry: **SB 154, HB 119.**

Banking and Insurance: **SB 155, SB 156.**

Judiciary: **SB 158, HB 16, HB 49.**

Executive and Legislative Affairs: **SB 159.**

Claims: **SR 40.**

Appropriations: **HB 10.**

Agriculture: **HB 67.**

### Motions

Senator Bassett moved to suspend the Rules and that when the Senate adjourns today, it adjourns until 3:00 p.m., Monday, February 10, 1958. Agreed.

### Report on Enrolled Bills

Committee on Enrollment reported that **HB 1** had been examined and found correctly enrolled. Said bill read at length, compared, and signed in open session by the President. Ordered that the original and enrolled copies be delivered to the House.

Senator Bassett moved adjournment until 3:00 p.m., Monday, February 10, 1958. Agreed.

## MONDAY, FEBRUARY 10, 1958

## TWENTY-EIGHTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by Senator E. W. Richmond.

The roll was called. All members present except Senators Cornett, Duffy, Greene, Hamilton, Howard, Johnson, and Overbey, who were granted leave of absence on motion of Senator McCann.

Reading of the Journal for Friday, February 7, 1958 dispensed with and the same approved on motion of Senater McCann.

### Motions

Senator Bassett moved that **SB 90** be recommitted. Agreed by voice vote.

### Introductions

**SR 41,** by Senator Van Hoose: A CONCURRENT RESOLUTION relating to adjournment of the General Assembly.

*Be it Resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. That when the Senate and the House of Representatives adjourn on Tuesday, February 11, 1958 they adjourn to Monday, February 17, 1958, 8 p.m. and that said adjournment be in the memory of Abraham Lincoln.

Section 2. This adjournment recognizes that Wednesday, February 12, 1958 is not a legislative day within the meaning of Section 42 of the Constitution. KRS 2.110 specifies that February 12, 1958, Abraham Lincoln Day, is a legal holiday. KRS 2.110 further specifies that if any legal holiday occurs on Sunday the next day thereafter shall be observed as a holiday. Section 42 of the Constitution excludes Sunday and legal holidays in the count of sixty legislative days.

Senator Van Hoose moved the adoption of **SR 41.** Adopted by voice vote.

### Motions

Senator Young moved that Nancy Rogers Taylor be made an Honorary Page of the Senate. Agreed.

Senator Kelly moved that Patti B. Martin and Michael D. Martin be made Honorary Pages of the Senate. Agreed.

### Introductions

**SB 165,** by Senator Kidwell: AN ACT to provide a unified system for the administration of child welfare services and adoption under a Kentucky Commission for Child Welfare.

**SB 166**, by Senator Bassett: AN ACT relating to nuclear energy.

**SB 167**, by Senator Bassett: AN ACT relating to adoption of children, and declaring an emergency.

**SB 168**, by Senator Richmond: AN ACT relating to the establishment, operation, and regulation of independent business schools.

### Orders of the Day

Senator Bassett moved that **SB 77** be recommitted. Agreed by voice vote.

**SB 84** taken from the Orders of the Day and ordered read at length for the third time. Senator Anggelis moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Clay proposed Amendment No. 1 to **SB 84** as follows:

Amend printed copy of **SB 84** on page 2, section 2, line 1 insert word "wrongfully" after the word "who."

Senator Clay moved adoption of said amendment. Adopted by voice vote.

Senator Willis proposed Amendment No. 2 to **SB 84** as follows:

Amend printed copy of **SB 84** on page 2, section 1 (4), line 21 by inserting following the word "court" on line 21 the words "of the county wherein he is refused the right to inspect such records."

Senator Willis moved adoption of said amendment. Adopted by voice vote.

Senator Willis proposed Amendment No. 3 to **SB 84** as follows:

Amend printed copy of **SB 84** on page 2, section 1 (4), lines 20 and 21 by deleting the word "Franklin" following the word "in" in line 20 and before the word "Circuit" in line 21 and substituting the word "the" in lieu thereof.

Senator Willis moved the adoption of said amendment. Adopted by voice vote.

Senator Anggelis moved the Previous Question on **SB 84.** Agreed.

On roll call, the vote was: Yeas, 14; Nays, 11. **SB 84** did not pass for lack of a constitutional majority.

On roll call, the vote was: Yeas 14—Anggelis, Bassett, Blue, Bonn, Clay, C. H. Davis, Fields, Hickerson, Howell, Jackson, Kelly, Lucas, Richmond, Willis; Nays 11, Duncan, Francis, Freeman, Kidwell, McCann, Melton, Miller, Reuscher, Van Hoose, Ware, Young.

### House Message

Announcing passage of **HR 40, HR 42, HR 43, HR 48, HB 23.** Ordered that said bills be referred.

### Orders of the Day

**SB 13** taken from the Orders of the Day. Senator Bassett moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 75** taken from the Orders of the Day. Senator Bassett moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 67** taken from the Orders of the Day. Senator Willis moved that consideration of said bill be deferred and that it retain its place in Orders of the Day.

**SB 50** taken from the Orders of the Day and ordered read at length for the third time. Senator Knuckles moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

On roll call, the vote was: Yeas 29—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, C. H. Davis, Mrs. J. H. Davis, Fields, Francis, Freeman, Hickerson, Howell, Jackson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays 0.

**SB 50** was passed and the title agreed to.

Senator Young moved that the vote by which **SB 84** was defeated be reconsidered. Agreed by voice vote.

Senator Young moved that **SB 84** be recommitted. Agreed.

Senator Bassett moved that the vote by which **SR 41** was adopted be reconsidered. Agreed by voice vote.

Senator Bassett proposed an Amendment to **SR 41** as follows:

Amend printed copy of **SR 41** on page 1, section 1, line 3. Changing the words "8 p.m." to read "3 p.m."

Senator Bassett moved adoption of said Amendment to **SR 41.** Adopted by voice vote.

Senator Bassett moved that **SR 41** be adopted. Adopted by voice vote.

**SB 60** taken from the Orders of the Day. Senator Bassett moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 114** taken from the Orders of the Day. Senator Van Hoose moved that consideration of said bill be deferred and that it retain its place in the Orders of the Day. Agreed.

### Introductions

Senator Bassett moved to suspend the Rules for the purpose of introducing bills. Agreed.

**SB 169**, by Senator Bassett: AN ACT establishing a Uniform Commercial Code.

### Orders of the Day

**SB 49** taken from the Orders of the Day and ordered read at length for the third time. Senator Anggelis moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Clay moved that the Committee Amendment to **SB 49** be withdrawn. Agreed by voice vote.

Senator Anggelis proposed an Amendment to **SB 49** as follows:

Amend printed copy of **SB 49** on page 2, section 2, lines 1 through 10 by inserting in lieu thereof the following:

Section 2. **Use of Certain Words Prohibited.**

(a) No person shall hold himself out as a Physical Therapist or in any manner represent himself as a Physical Therapist in this State unless he is the holder of a valid and unrevoked license issued by the State Board of Physical Therapy. Provided, however, that nothing contained in this Act shall apply to the practice of chiropractic or prohibit any person licensed in this State according to law, from carrying out the therapy or practice for which he is duly licensed.

Senator Anggelis moved the adoption of said amendment. Adopted by voice vote.

Senator Anggelis moved the Previous Question on **SB 49**. Agreed.

On roll call, the vote was: Yeas 24—Anggelis, Bassett, Blake, Blue, Bonn, Clay, C. H. Davis, Mrs. J. H. Davis, Francis, Hickerson, Howell, Jackson, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis, Young. Nays 5—Fields, Freeman, Kelly, Kidwell, Warinner,.

**SB 49** was passed and the title agreed to.

### Introductions

Senator Bassett moved to suspend the Rules for the purpose of introducing bills. Agreed.

**SB 170,** by Senator Bassett: AN ACT relating to joinder of offenses charged in indictments, joinder of defendants therein, and the trial of such defendants, jointly, providing relief from prejudicial joinder and repealing Section 126 (1), Section 127, and Section 237 of Carroll's Kentucky Criminal Code of Practice.

**SB 171,** by Senator Bassett: AN ACT relating to arguments of counsel in criminal cases.

**SB 172,** by Senator Bassett: AN ACT relating to peremptory challenges allowed defendants.

**SB 173,** by Senator Bassett: AN ACT relating to peremptory challenges allowed the Commonwealth in the selection of juries in criminal cases.

## Report on Enrolled Bills

Committee on Enrollment reported that **HB 2** had been examined and found correctly enrolled. Said bill read at length, compared, and signed in open session by the President. Ordered that the original and enrolled copies be delivered to the House.

## Introductions

Senator Warinner moved to suspend the Rules for the purpose of introducing a resolution. Agreed.

**SR 42,** by Senators Warinner, Knuckles, Byers, Cornett, Van Hoose, Mrs. J. Harry Davis, Duncan, Miller, and Lucas: A CONCURRENT RESOLUTION commemorating the one hundred and fiftieth birthday of Abraham Lincoln.

**SR 42:** WHEREAS, the year one thousand nine hundred and fifty nine is the one hundred fiftieth since the birth of Abraham Lincoln, native Kentuckian and one of the greatest Americans who ever lived;

WHEREAS, Abraham Lincoln, more than any other man, both in his day and now, is the epitome of humanitarian service, and devotion to our great nation;

WHEREAS, this great American, although he was elevated by his fellow citizens to the highest position of honor and power, never lost sight of his basic credo of equality and justice, and remained steadfastly true to those great guiding principles upon which our grand nation is built;

WHEREAS, more than one thousand books have been written on the remarkable life of this great statesman;

WHERE, this champion of equal rights and opportunities for all so encompassed this area as to be named "The Great Emancipator";

WHEREAS, there are on public exhibition throughout the United States, at least one hundred twenty-eight statues of this magnificent Kentuckian;

WHEREAS, the strides made by Abraham Lincoln were milestones achieved in the name of liberty, equality and fraternity;

WHEREAS, Lincoln gave his all for the causes to which he remained so true, to-wit, the freedom of oppressed minorities, and the achievement of true equality and justice for all.

NOW, THEREFORE,

*Be it Resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. That the General Assembly take due note of the one hundred fiftieth anniversary of the birth date of our sixteenth and greatest president, Abraham Lincoln.

Section 2. That the citizens of the Commonwealth honor this great American by suitable means throughout the Lincoln Sesquicentennial.

Section 3. That when the Senate and House of Representatives do adjourn on Monday, February 10, 1958, they do so in honor and memory of Abraham Lincoln.

Senator Warinner moved the adoption of **SR 42.** Adopted by voice vote.

## Reference of Bills

The President announced referral of the following bills and resolutions:

Executive and Legislative Affairs: **SB 160.**

Suffrage, Elections, and Constitutional Amendments: **SB 161.**

State and County Government: **SB 162.**

Conservation: **SB 163,** Rosal Mining and Land Corp., Lovelock, Nevada.

Education: **SB 164.**

Ways and Means: South Dakota Senate Resolution, Nebraska Legislative Resolution 19, Illinois Joint Resolution 6, Texas House Concurrent Resolution 5, Texas House Concurrent Resolution 3, Florida House Concurrent Resolution 174, Indiana House Concurrent Resolution 2, Indiana House Concurrent Resolution 4, Indiana House Concurrent Resolution 7, Indiana House Concurrent Resolution 8, Indiana House Concurrent Resolution 9.

Revenue and Taxation: Florida House Memorial 223, Florida Senate Concurrent Resolution 381.

Judiciary: Kiwanis Club of Latonia, Ky.—Resolution.

Municipalities: Board of Commissioners of City of Covington, Kenton County, Kentucky—Resolution No. R-35-57.

Claims: **HR 11.**

Senator Bassett moved adjournment until 1:00 p.m., Tuesday, February 11, 1958. Agreed.

## TUESDAY, FEBRUARY 11, 1958

## TWENTY-NINTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Robert J. Laughlin of the First Presbyterian Church of Frankfort.

The roll was called. All members present except Senators Greene and Overbey, who were granted leave of absence on motion of Senator Bassett.

Reading of the Journal for Monday, Februray 10, 1958, dispensed with and the same approved on motion of Senator McCann.

### Motions

Senator Fields moved that **SB 44**, which was reported by the Committee on Ways and Means without expression, be read for the first time and placed in the Calendar.

Senator Kidwell moved that Senator Fields' motion be tabled. Agreed by voice vote.

### Introductions

**SR 43**, by Senator Warinner: A JOINT RESOLUTION designating Joseph William Wells as poet laureate of Kentucky.

**SR 44**, by Senator Howell: A CONCURRENT RESOLUTION authorizing and directing an investigation of the minimum foundation program with respect to the disbursement of funds appropriated thereunder; providing for a special committee and funds therefor.

**SR 45**, by Senator Hamilton: A CONCURRENT RESOLUTION recognizing the vast amount of work already done by the many hundreds of Civil Defense volunteer workers and the Kentucky Civil Defense in the Commonwealth and may problems yet to be solved; and urging the citizens to continue their support of state and local Civil Defense units.

**SB 174**, by Senator Freeman: AN ACT relating to school superintendents.

**SB 175**, by Senator McCann: AN ACT relating to financial responsibility.

**SB 176**, by Senator Johnson: AN ACT relating to post-mortem examinations.

**SB 177**, by Senator Jackson: AN ACT relating to revenue and taxation.

**SB 178**, by Senator Ware: AN ACT relating to city employes.

**SB 179**, by Senators Willis and Richmond: AN ACT authorizing the appointment of an Assistant Attorney General for the Department of Education.

## Committee Reports

Committee on Agriculture and State Fair reported **HB 67** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 67**: AN ACT relating to Cooperatives.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Any agricultural cooperative organized or operated under provisions of Chapter 272 of the Kentucky Revised Statutes, or any agricultural cooperative association organized under the provisions of Chapter 271 of the Kentucky Revised Statutes and meeting the requirements of an agricultural cooperative as set forth in Chapter 57, Section 1, 42 U. S. Statutes, p. 388 (Title 7, Sect. 291, U.S.C.A.), or any cooperative corporation organized under Chapter 279 of Kentucky Revised Statutes may recover, after a period of five years, any unclaimed stocks, dividends, patronage refunds, or book equities for which the owner cannot be found and which are the result of distributable savings of the cooperative. The mailing of these stocks, dividends, patronage refunds, or book equities to the last known address of the individual involved as recorded on the records of the cooperative shall be evidence of a bona fide attempt to deliver the same to the individual. When the notice to the individual of these amounts has been returned to the U. S. mail and the amounts have not been called for, after five years, the amounts involved may be placed in the income of the cooperative for the appropriate year and redistributed to the then current patrons.

Committee on Agriculture and State Fair reported **SB 42** with the expression of opinion that the same should pass by way of committee substitute. Read at length for the first time and ordered placed in the Calendar.

**SB 42**: AN ACT relating to tobacco research.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. In enacting this legislation it is the intention of the General Assembly to find new uses for Kentucky's tobacco surplus to avoid further cuts in acreage quotas and to solve other problems adversely affecting the economy of the Commonwealth.

Section 2. There shall be established in the Agricultural Experiment Station of the University of Kentucky, a research project to promote greater utilization for Kentucky tobacco with particular emphasis on new uses and new products.

Section 3. All property rights or income resulting from research under this Act shall be credited to the research project herein established and shall be used for continued research into new uses for tobacco.

Section 4. On or about January 1 of each year the director of the Agricultural Experiment Station shall make a progress report to the Governor, the General Assembly, the Board of Trustees of the University of Kentucky and the press of the Commonwealth; except in such instances where revelation of such report may adversely affect a successful culmination of that portion or portions of the research.

Section 5. None of the monies appropriated for the purpose of this Act shall be used for research leading to increased tobacco production nor for research into tobacco disease control, except where such research is considered necessary to develop greater utilization or new products.

Section 6. To carry out the purposes of this Act, the sum of fifty thousand dollars for the 1958-1959 fiscal year and the sum of fifty thousand dollars for the 1959-1960 fiscal year is appropriated to the Agricultural Experiment Station of the University of Kentucky out of the General Fund.

Section 7. Any monies not expended in the first year of the biennium shall be available for this program in the second year of the biennium and shall not revert to the general fund.

Committee on Agriculture and State Fair reported **SB 138** with the expression of opinion that the same should pass with committee amendment attached thereto. Read at length for the first time and ordered placed in the Calendar.

**SB 138:** AN ACT relating to dairy product marketing.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. This Act shall be known as the "Milk Marketing Law."

Section 2. As used in this Act, unless otherwise required by context:

(1) "Commission" means the Milk Marketing and Antimonopoly Commission;

(2) "Person" means any individual, corporation, partnership, association, cooperative, or other business unit;

(3) "Producer" means every person who produces milk or cream from cows and thereafter sells the same as milk, cream, or other dairy products;

(4) "Producer-handler" means any person who maintains his own herd, prepares for human consumption the milk or cream or other dairy products produced from the herd, and distributes and sells his own products, partially or exclusively, to customers or to others for sale to consumers;

(5) "Milk dealer" or "handler" means any person, including any distributor, processor, bulk milk handler, or operator of a store, who purchases or receives on consignment or otherwise, milk, cottage cheese or frozen dairy products, as hereinafter defined, within the state, for sale, shipment, storage, processing or manufacture, other than for consumption on the premises; A producer who delivers milk only to a processor, distributor or bulk milk handler shall not be deemed a milk dealer or handler; If a cooperative distributes or makes available on consignment or otherwise, milk, cottage cheese or frozen dairy products, within this state, to any person, it shall be deemed to be a milk dealer or handler as to that part of its business;

(6) "Consumer" means any person, other than a milk dealer or handler, who purchases milk, cottage cheese, or frozen dairy products for the consumption or use by himself or others;

(7) "Cooperative" means the term as defined in KRS Chapter 272, or an association organized under similar laws of another state;

(8) "Licensee" means a licensed milk dealer or handler;

(9) "Distributor" means any person, other than a bulk milk handler, engaged in the business of distributing milk, cottage cheese or frozen diary products directly to retail outlets or consumers;

(10) "Processor" means any person engaged in the business of processing or packaging bulk milk into milk, cottage cheese or any frozen dairy products;

(11) "Bulk milk" means milk in bulk form, in cans, tank cars or tank trucks, that is furnished to a processor for the purpose of processing and manufacturing into milk, cottage cheese, or frozen dairy products;

(12) "Bulk milk handler" means any person engaged in the business of disposing of bulk milk to a processor, provided, that the term "bulk milk handler" shall not include a cooperative association with respect to the sale of the milk of its members;

(13) "Store" includes any mercantile establishment that sells at retail milk, cottage cheese or frozen dairy products;

(14) "Milk" means fluid milk, sweet cream, sour cream, skim milk, flavored milk, buttermilk, and condensed or concentrated whole or skim milk for use in fluid milk products;

(15) "Cottage cheese" means the soft uncured cheese prepared from the curd obtained by adding bacteria, with or without enzymatic action, to skim milk or reconstituted skim milk, prepared with or without mixture with cream or mixture of cream and milk or skim milk;

(16) "Frozen dairy products" means ice cream, ice cream mix, and any frozen substance, mixture or compound, regardless of the name under which it is represented, which is made in imitation or semblance of ice cream or sherbet, when prepared or manufactured for commercial purposes;

(17) "Books and records" mean all pertinent books, ledgers, journals, records, papers, memoranda, correspondence, vouchers, bills, receipts, cancelled checks, accounts, exhibits, photographs and other documents.

Section 3. (1) There is hereby created the milk Marketing and Antimonopoly Commission, which shall consist of six members. The membership of this commission shall be composed of the Commissioner of Agriculture, Labor and Statistics, who shall hold office ex officio, a representative to be appointed by the Director of the Agricultural Experiment Station, and four others to be selected by the Governor. Of the four members selected by the Governor, two shall be appointed from a list of four persons submitted by the Kentucky Farm Bureau Federation and two shall be appointed from a list of four persons submitted by the Dairy Producers Association of Kentucky. Both the Dairy Products Association of Kentucky and the Kentucky Farm Bureau Federation shall present two names from the first four congressional districts and two names from the second four congressional districts, and one member shall be selected from each of the two groups of congressional districts. All members shall be citizens of the United States and residents of the Commonwealth.

(2) All members shall serve a term of four years and until their successors are appointed and qualified, except that the four members first appointed shall hold office as follows: One for one year, one for two years, one for three years, and one for four years, from the effective date of this Act. Vacancies occurring during a term shall be filled by appointment for the unexpired term as provided in subsection (1) of this section.

(3) The Commissioner of Agriculture, Labor and Statistics shall be the chairman of the commission and the commission shall select a vice-chairman from among its members. The chairman or vice-chairman shall preside at all meetings and vote as any other member.

(4) Any action or order of the commission shall require the approval of at least four members.

(5) All members of the commission shall be reimbursed for their actual expenses and each appointed member shall be paid, in addition, twenty dollars for each day spent in the discharge of his official duties. No member of the commission during his tenure of office, shall hold any other office under the laws of the Commonwealth or the United States, with the exception of the Commissioner of Agriculture, Labor and Statistics.

Section 4. The Commonwealth shall not be liable for the acts or omissions of the commission or any member, officer, agent or employe thereof, or upon any contract entered into by the commission. No member of the commission and no officer, agent or employe thereof, shall be personally liable on any contract or agreement of the commission. All salaries, expenses, costs and liabilities incurred under the provisions of this Act shall be the obligations of the commission.

Section 5. No member or person employed in the work of the commission shall, for a period of two years after leaving the service of the commission, be eligible to appear before the commission representing any person interested in any proceeding pending before the commission.

Section 6. (1) The commission shall promulgate reasonable administrative regulations for the purposes of promoting the provisions of this chapter, including the establishment of reasonable marketing practices. However, nothing in this Act shall be construed to alter, amend or repeal any of the laws of the Commonwealth relating to the regulation of public health or to the prevention of fraud and deception.

(2) The commission may employ such attorneys, clerks and employes as it deems necessary to carry out the provisions of this Act. Any officer, employe or agent of the commission may be required to give bond as provided in KRS 62.060.

Section 7. (1) The commission may initiate proceedings, for the purpose of hearing and investigating evidence of the failure or refusal of any person to comply with the provisions of this chapter or the rules, regulations and orders of the commission issued thereunder after first giving five days notice to the alleged violator as to the date and time fixed for the hearing and the nature of the charge or charges. Each witness required to attend the hearing shall be entitled to receive mileage customarily paid to witnesses in the courts of the Commonwealth. The commission shall not be bound by technical rules of evidence, except as may be required by the applicable administrative procedure laws of the Commonwealth.

(2) The commission shall have the power during the course of an investigation or hearing to issue subpoenas requiring the attendance and testimony of any persons believed to have information of importance to the hearing or investigation, or possessing any books or records of importance to the hearing or investigation.

(3) Any person who refuses to obey a subpoena issued by the commission, or refuses to be sworn or affirmed, or testify, or who is guilty of any contempt after summons to appear, may be punished as for contempt of court. For this purpose an application may be made by the commission to the court of the circuit within whose territorial jurisdiction the hearing or investigation is being conducted.

Section 8. All acts, proceedings, rules, regulations, orders, papers, findings, minutes and records of the commission and all reports and documents filed with the commission may be proved in any court of the Commonwealth by copy thereof, certified to by the chairman or secretary of the commission.

Section 9. (1) The commission may confer with legally constituted authorities of other states and of the United States with respect to uniform milk marketing practices. The commission may join with authorities of other states and with the authorities of the United States to conduct joint investigations, to exchange information, hold joint hearings and issue joint, complementary or concurrent orders, and to enter into compacts upon milk marketing practices.

(2) The commission may grant exemptions from any provisions of this Act with respect to distribution or sale of products made to the United States or the Commonwealth or any agency, department, division or institution of either, or to any public institution supported in whole or in part by public funds.

Section 10. (1) Every milk dealer or handler who owns or operates facilities at which milk, cottage cheese and frozen dairy products are received, or processed for distribution or sale within the Commonwealth, or who sells milk, cottage cheese or frozen dairy products within the Commonwealth, shall make application for a license as a milk dealer or handler with the commission within thirty days after this Act takes effect, and annually thereafter, on or before January 1, upon a form to be prescribed by the commission. Such application shall be accompanied by a license fee of one dollar. Renewal fee shall be one dollar. Any licensee failing to renew his license before the expiration date thereof shall be penalized two dollars in addition to his license fee.

(2) The license required by this Act shall be in addition to any other license or licenses which are now or may hereafter be required by law.

(3) Producer-handlers who distribute or sell a total quantity of milk, cottage cheese, and frozen dairy products, not in excess of an equivalent of three thousand pounds of whole milk in any one month, shall be exempted from the license requirement.

(4) Licenses may not be assigned or transferred.

Section 11. (1) The commission may decline to grant a license to an applicant or may suspend or revoke a license for the following causes:

(a) Failure to account and make payment for any milk purchased or received from a producer, milk dealer or cooperative that is marketing the milk of its member-producers. Provided, however, that if it be shown that there was reasonable cause for any such failure to account and make payment, and that such accounting and payment can and will be made promptly, the commission shall not suspend or revoke a license solely for such conduct, until a reasonable opportunity has been afforded the licensee to make accounting and payment;

(b) Doing any act injurious to public health or welfare or doing any act injurious to trade or commerce by disrupting of the orderly marketing of milk, cottage cheese, or frozen dairy products to such an extent as to interfere with the ample supply thereof for the inhabitants of the Commonwealth. Such act shall include and course of conduct on the part of the milk dealer or handler in violation of the terms of this Act or any valid rules, regulations and orders of the commission;

(c) Making a general assignment for the benefit of creditors, or being adjudged a bankrupt;

(d) Participating in practices in selling or otherwise disposing of milk at prices which create a condition of emergency, by disrupting and undermining orderly marketing practices or by imperiling the ability of milk dealers or handlers to make full and prompt payment for such milk;

(e) Failure to keep books and records or to furnish accurately the reports, statements of other information required by the commission;

(f) Having made any statement upon which a license was issued, which is found to have been false or misleading in any particular;

(g) Violation of any of the provisions of this Act, or any of the rules, regulations or orders of the commission;

(h) Failing to pay any judgment rendered as a result of any violation of the provisions of this Act, or the rules and regulations promulgated by the commission;

(i) Refusal without reasonable cause to receive milk from a producer because it was not transported to the milk dealer or handler by a hauler of the dealer's or handler's choosing, providing that such producer or hauler has adequate facilities and equipment for hauling, and is delivering or is ready, able and willing to deliver, milk to the plant of such dealer or handler in proper condition and at the time necessary to coincide with the current schedule of plant operations of the dealer or handler;

(j) Any conduct constituting a misrepresentation or fraud on the public.

(2) The burden of proving reasonable cause under any provisions of this section shall be upon the milk dealer or handler. The issuance or renewal by the commission of a license hereunder shall not preclude the commission from suspending or revoking such license for a violation committed by the licensee prior to the current license period.

Section 12. Before refusing to grant or to reissue, or before suspending or revoking a license, the commission shall give notice to the licensee by registered mail at least five days prior to the hearing containing a statement of the matters complained of. After reaching a decision, the commission shall notify the licensee by registered mail within ten days.

Section 13. (1) In addition to the annual license fee there is imposed an assessment on all milk, except bulk milk, and on cottage cheese and frozen dairy products sold in the Commonwealth or packaged or processed in the Commonwealth for distribution therein. The assessment shall be a fee of not more than four mills per hundredweight on all milk used or processed in packaged or processed milk and cottage cheese; a fee of not more than one mill on each gallon of frozen dairy products with the exception of ice cream mix; and a fee of two mills on each gallon of ice cream mix. The commission may fix such assessment fees at lesser amounts and adjust such fees from time to time.

(2) The assessment fees shall be paid to the commission by:

(a) Each distributor with respect to the sale or disposition of milk, cottage cheese and frozen dairy products to consumers, or stores within the Commonwealth; and

(b) Each store with respect to its purchases of milk, cottage cheese or frozen dairy products from any source other than from distributors who are subject to the reporting and payment provisions of this section.

(3) (a) The assessment fees shall be payable to the commission on or before the last day of the month following the month during which such products were sold or disposed of. Such returns shall be on forms to be prescribed and furnished by the commission, and shall contain such information as the commission may require. The commission may in addition require each milk dealer or handler, including a producer-handler, to file a return with the commission for any month, giving such information as the commission may require.

(b) All information furnished to or acquired by the commission pursuant to this chapter shall be kept confidential by all members and employes of the commission and only such information as the commission deems revelant shall be disclosed by it, and then only in an administrative or court proceeding.

(4) The assessment fees provided for by this chapter shall not apply to milk, cottage cheese and frozen dairy products used or consumed on the farm where produced or manufactured, or distributed or sold by producer-handlers in a total quantity not to exceed an equivalent of three thousand pounds of whole fluid milk during the month.

Section 14. All fees and other moneys received by the commission pursuant to the provisions of this Act shall be paid to the commission, and shall be deposited in the state treasury to the credit of a revolving fund for the use of the commission in the administration of this Act.

Section 15. Whenever in the judgment of the commisison any person has engaged in or is about to engage in any acts or practices that constitute a violation of this Act, or of any rules promulgated by the commission, the commission may make application to the court for an order enjoining such act or acts or practices.

Section 16. Any person who violates any provision of this Act or any rule, regulation or order of the commission shall be fined not more than five hundred dollars or imprisoned for not less than one day nor more than thirty days, or both, for each offense.

Section 17. This Act shall become effective on July 1, 1958.

## Committee Amendment

Amend printed copy of **SB 138** on Page 4, Section 3 (1), Lines 1-18 by striking Section 3 (1) and inserting in lieu thereof:

"Section 3. (1) There is hereby created the Milk Marketing and Antimonopoly Commission, which shall consist of six members. The membership of this commission shall be composed of the Commissioner of Agriculture, Labor and Statistics, who shall hold office ex officio, and five others to be selected by the Governor. Of the five members selected by the Governor, one shall be appointed from a list of four persons submitted by the Director of the Agricultural Experiment Station, two shall be appointed from a list of four persons submitted by the Kentucky Farm Bureau Federation and two shall be appointed from a list of four persons submitted by the Dairy Producers Association of Kentucky. Both the Dairy Products Association of Kentucky and the Kentucky Farm Bureau Federation shall present two names from the first four congressional districts and two names from the second four congressional districts, and one member shall be selected from each of the two groups of congressional districts. All members shall be citizens of the United States and residents of the Commonwealth."

Committee on Executive and Legislative Affairs reported **SB 40** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 40:** AN ACT relating to education, providing for a college in Hardin County.

WHEREAS, there is a serious need for the creation of a state college in Hardin County, for the purpose of alleviating the serious shortage of trained teachers within the Commonwealth, and to more fully carry into effect the provisions of Section 183 of the Constitution of Kentucky, by affording to the teachers and students of central Kentucky such training in the common school system, in the science and art of teaching, and in such other areas as may be deemed necessary and advisable, as will enable them to improve and render more efficient the administration of the common school system and raise the standards of instruction therein throughout the Commonwealth.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

There shall be established and maintained a state college in the City of Elizabethtown, Kentucky, or the environs thereof, to be known as the "Elizabethtown State College". The "Elizabethtown State College" shall be maintained in the same manner as the other state colleges presently existing within the Commonwealth.

Committee on Revenue and Taxation reported **SB 141** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 141:** AN ACT relating to taxation of cigarettes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

The liability for, or the incidence of, the tax on cigarettes is declared to be a levy on the consumer. The distributors shall add the amount of the tax on cigarettes presently levied to the price of the cigarettes and the distributor may state the amount of the taxes separately from the price of such cigarettes on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price of such cigarettes. The provisions of this section shall in no way affect the method of collection of such taxes on cigarettes as now provided by existing law.

Committee on Revenue and Taxation reported **SB 77** with the expression of opinion that the same should pass with two committee amendments attached thereto. Read at length for the first time and ordered placed in the Calendar.

**SB 77:** AN ACT relating to motor vehicles.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 186.010 of the Kentucky Revised Statutes is amended to read as follows:

186.010. In this chapter, unless the context requires otherwise:

(1) "Department" means the Department of Revenue.

(2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license or privilege, for the purpose of vehicular traffic.

(3) "Manufacture" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten new motor vehicles.

(4) "Motor Vehicle" as used in KRS 186.020 to 186.260, includes all vehicles, as defined in paragraph (a) of sub-section (7) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of sub-section (7) of this section, which are self-propelled.

(5) "Operator" means any person in actual control of a motor vehicle upon a highway.

(6) "Owner" means a person who holds the legal title of a vehicle. If a vehicle is the subject of an agreement for the conditional sale or lease, with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor

of a vehicle in entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.

(7) (a) "Vehicle", as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five miles beyond the city limit of any municipality.

(b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracks, or derives its power from overhead wires.

(8) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operators' licenses.

(9) "Dealer" means any person engaging in the business of buying or selling motor vehicles.

(10) *"Motor-driven cycle" means all vehicles, as defined in paragraph (b) of subsection (7) of this section, which have a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, and which are self-propelled by a motor or engine producing not in excess of five (5) brake horsepower.*

Section 2. Subsection (2) of Section 186.050 of the Kentucky Revised Statutes is amended to read as follows:

(2) The annual registration fee for each motorcycle and *motor-driven* cycle shall be $2.00 and for each side car attachment, $1.00.

Section 3. The introductory clause and subsection (1) of Section 186.440 of the Kentucky Revised Statutes are amended to read as follows:

186.440. An operator's license shall not be granted to:

(1) Any person under the age of 16, *except that an appropriately marked special operator's license shall be granted to any properly qualified person over the age of 14 and under 16 to operate a motor-driven cycle.*

Section 4. *All motor-driven cycles sold in this state must be clearly stenciled or stamped by the manufacturer with the name of the manufacturer, place of manufacture, and horsepower of the cycle.*

Section 5. Section 189.010 of the Kentucky Revised Statutes is amended to read as follows:

189.010. As used in this chapter, unless the context requires otherwise:

(1) "Department" means the Department of Highways.

(2) "Highway" means any public road, street, avenue, alley, or boulevard, bridge, viaduct, or trestle, and the approaches to them.

(3) "Motor truck" means any motor-propelled vehicle designed for carrying freight or merchandise. It shall not include self-propelled vehicles designed primarily for passenger transportation, but equipped with frames, racks or bodies having a load capacity of not exceeding one thousand pounds.

(4) "Operator" means the person in actual physical control of a vehicle.

(5) "Semi-trailer" means a vehicle designed to be attached to, and having its front end supported by, a motor truck or truck tractor, intended for the carrying of freight or merchandise and having a load capacity of over one thousand pounds.

(6) "Semi-trailer truck" means any motor-propelled vehicle designed to draw and to support the front end of a semi-trailer. The semi-trailer and the tractor shall be considered to be one unit.

(7) "Sharp curve" means a curve of not less than thirty degrees.

(8) "State Highway Patrol" means any agency for the enforcement of the highways laws established pursuant to KRS 12.030, 176.020, and 281.380.

(9) "Steep grade" means a grade of exceeding seven percent.

(10) "Trailer" means any vehicle designed to be drawn by a motor truck or truck-trailer, but supported wholly upon its own wheels, intended for the carriage of freight or merchandise, and having a load capacity of over one thousand pounds.

(11) "Unobstructed highway" means a straight, level, first-class road upon which no other vehicle is passing or attempting to pass, and upon which no other vehicle or pedestrian is approaching in the opposite direction, closer than three hundred yards.

(12) "Vehicle" includes all agencies for the transportation of persons or property over or upon the public highways of this Common-

wealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five miles beyond the city limit of any municipality. "Motor vehicle" includes all vehicles as defined above which are propelled otherwise than by muscular power.

*(13) "Motor-driven cycle" means all motor vehicles, as defined in subsection (12) of this section, which have a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, and which are self-propelled by a motor or engine producing not in excess of five (5) brake horsepower.*

Section 6. Subsection (1) of Section 189.040 of the Kentucky Revised Statutes is amended to read as follows:

189.040 (1) Motor vehicles shall have at least two lamps in front, showing white, or tinted other than red, and of sufficient power to reveal clearly substantial objects at least 350 feet ahead. Two-wheeled motorcycles *and motor-driven cycles* need have only one such lamp. On all motor vehicles there shall also be a selective lowermost distribution of light, or composite beam, so aimed that:

(a) When the motor vehicle is not loaded, none of the high intensity portion of the light which is directed to the left of the prolongation of the extreme left side of the vehicle shall, at a distance of twenty-five feet ahead, project higher than a level of ten inches below the level of the center of the lamp from which it comes.

(b) When the motor vehicle is not loaded, none of the high intensity portion of the light which is directed to the right of the prolongation of the extreme left side of the vehicle shall, at a distance of twenty-five feet ahead, project higher than a level of five inches below the center of the lamp from which it comes. It shall reveal objects one hundred feet ahead. Any light projected ahead or sidewise shall be so arranged or deflected that no glaring rays from it or from any reflector shall be at any time more than three and one-half feet above a plane at a distance of seventy-five feet or more ahead of the vehicle. In case of accident or emergency, motor vehicles may display lanterns or other lights of smaller power, but if the lights are insufficient to reveal clearly substantial objects at least seventy-five feet ahead, the vehicle shall not proceed at a rate of speed in excess of twenty miles per hour. No motor vehicle shall be sold unless the light projected by the headlights meets the requirements of this sub-section at the time of sale.

Section 7. Subsection (2) of Section 189.090 of the Kentucky Revised Statutes is amended to read as follows:

(2) Every motor vehicle, other than a motorcycle *or motor-driven cycle,* when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the vehicle. There shall be two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If the two separate means are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

Section 8. *The Department of Public Safety may, in its discretion, suspend or revoke the special license of any motor-driven cycle operator when such operator has received three or more citations for moving violations of the motor vehicle laws of this State.*

Amend printed copy of **SB 77** on page 7, section 7, line 3 by striking the words "other than" and inserting in lieu thereof the word "including."

Amend printed copy of **SB 77** on page 1, line 5 by deleting said Line 5 and inserting in lieu thereof the words: "Department," as used in KRS 186.105 to 186.270, means the Department of Revenue. As used in KRS 186.400 to 186.640, it means the Department of Public Safety.

### Orders of the Day

**SB 13** taken from the Orders of the Day. Senator Bassett moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 75** taken from the Orders of the Day and ordered read at length for the third time. Senator Howard moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Howard moved the Previous Question on **SB 75.** Agreed.

On roll call, the vote was: Yeas 36—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young. Nays 0.

**SB 75** was passed and the title agreed to.

Senator Howard moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 67** taken from the Orders of the Day. Senator Willis moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 114** taken from the Orders of the Day. Senator Van Hoose moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 60** taken from the Orders of the Day. Senator Bassett moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 81** taken from the Orders of the Day and ordered read at length for the third time. Senator Duffy moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Duffy moved the Previous Question on **SB 81.** Agreed.

On roll call, the vote was: Yeas 22—Anggelis, Blue, Bonn, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Hamilton, Hickerson, Howard, Howell, Kelly, Kidwell, McCann, Melton, Reuscher, Ware, Willis. Nays 8—Bassett, Byers, Clay, Knuckles, Lucas, Van Hoose, Warinner, Young.

**SB 81** was passed and the title agreed to.

Senator Duffy moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 94** taken from the Orders of the Day. Senator Johnson moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 92** taken from the Orders of the Day and ordered read at length for the third time. Senator Johnson moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Johnson moved the Previous Question on **SB 92.** Agreed.

On roll call, the vote was: Yeas 34—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young. Nays 0.

**SB 92** passed and the title agreed to.

**SB 94** taken from the Orders of the Day and ordered read at length for the third time. Senator Johnson moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Johnson moved the Previous Question on **SB 94**. Agreed.

On roll call, the vote was: Yeas 35—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young. Nays 0.

**SB 94** was passed and the title agreed to.

Senator Johnson moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SR 8** taken from the Orders of the Day. Senator Duffy moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SR 20** taken from the Orders of the Day. Senator Bonn moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

## Motions

Senator Anggelis moved to suspend the Rules for the purpose of appointing Honorary Pages in the Senate. Agreed.

Senator Anggelis moved that Claud Bays, Stephen Gipe, Richard Linville Crump, and Stephen Torstrick be made Honorary Pages of the Senate. Agreed.

Senator Hamilton moved that Charles Christopher Wagg, Runnymede B. McPeake, Doug Rutherford, Roger Thomas, Ande Thomas, and Susan Scott be made Honorary Pages of the Senate. Agreed.

## Orders of the Day

**SB 23** taken from the Orders of the Day and ordered read at length for the third time. Senator Howard moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Howard moved that **SB 23** be laid on Clerk's Desk for the purpose of preparing an amendment. Agreed.

**SB 118** taken from the Orders of the Day and ordered read at length for the third time. Senator Reuscher moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Reuscher moved the Previous Question on **SB 118**. Agreed.

On roll call, the vote was: Yeas 32—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Hamilton, Hickerson, Howard, Howell, Jackson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Van Hoose, Ware, Warinner, Willis. Nays 0.

**SB 118** was passed and the title agreed to.

Senator Clay moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 133** taken from the Orders of the Day and ordered read at length for the third time. Senator Duncan moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Duncan moved the Previous Question on **SB 133.** Agreed.

On roll call, the vote was: Yeas 32—Anggelis, Bassett, Blake, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Van Hoose, Ware, Warinner, Willis. Nays 0.

**SB 133** was passed and the title agreed to.

Senator Duncan moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 43** taken from the Orders of the Day and ordered read at length for the third time. Senator Melton moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Melton moved the Previous Question on **SB 43.** Agreed.

On roll call, the vote was: Yeas 34—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis. Nays 0.

**SB 43** was passed and the title agreed to.

**SB 106** taken from the Orders of the Day and ordered read at length for the third time. Senator Van Hoose moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Van Hoose moved the Previous Question on **SB 106.** Agreed.

On roll call, the vote was: Yeas 34—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young. Nays 0.

**SB 106** was passed and the title agreed to.

**SB 17** taken from the Orders of the Day and ordered read at length for the third time. Senator Ware moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Ware moved the Previous Question on **SB 17.** Agreed.

On roll call, the vote was: Yeas 32—Anggelis, Bassett, Blake, Blue, Bonn, Clay, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Hamilton, Hickerson, Howard, Howell, Jackson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young. Nays 0.

**SB 17** was passed and the title agreed to.

### House Message

Announcing passage of **HR 52, HB 5, HB 205, SR 41.** Ordered that said bills and resolutions be referred.

### Orders of the Day

**SB 46** taken from the Orders of the Day. Senator Angellis moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 62** taken from the Orders of the Day. Senator Bassett moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 28** taken from the Orders of the Day and ordered read at length for the third time. Senator Reuscher moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Reuscher moved the Previous Question on **SB 28.** Agreed.

On roll call, the vote was: Yeas 33—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Hamilton, Hickerson, Howard, Howell, Jackson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young. Nays 0.

**SB 28** was passed and the title agreed to.

Senator McCann moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

### Introductions

Senator McCann moved to suspend the Rules for the purpose of introducing a bill. Agreed.

**SB 180,** by Senators McCann and Young: AN ACT to provide for the regulation of the hours which the staff of the elected officials of Jefferson County and the City of Louisville shall work.

### Orders of the Day

**SR 39** taken from the Orders of the Day. Senator Miller moved the adoption of said resolution.

A CONCURRENT RESOLUTION of the Senate and the House of Representatives of the General Assembly of Kentucky requesting that the Legislative Research Commission undertake and study the entire tax structure of the Commonwealth of Kentucky with the idea of amending same.

WHEREAS, it is generally conceded that many of our tax laws have been on the statute books for many years and that where it is possible that business and industry are not located within Kentucky as it might.

NOW THEREFORE, BE IT RESOLVED by the Senate of the Commonwealth of Kentucky and the House of Representatives concurring therein, that the Legislative Research Commission undertake the task of studying the entire tax structure of the Commonwealth of Kentucky with the idea towards streamlining and amending the tax laws and bringing them up to date.

BE IT FURTHER RESOLVED that the Legislative Research Commission publish and report its findings prior to the next meeting of the General Assembly of Kentucky in the year 1960.

Adopted by voice vote.

### Reference of Bills

Senator Bassett moved that **HR 13** be referred to Committee. Under an agreed suspension of the Rules, the President announced referral of the following resolution:

Education: **HR 13.**

### Orders of the Day

**HR 23** taken from the Orders of the Day. Senator Anggelis moved the adoption of said resolution. Agreed.

**HR 23:** A CONCURRENT RESOLUTION recognizing the Greek Orthodox Church as one of the major religions in Kentucky.

WHEREAS, membership of the Greek Orthodox Church, within the Commonwealth, has increased to substantial proportions in recent years; and

WHEREAS, the presence and activities of the Greek Orthodox Church have added immeasurably to the religious and moral fibre of the Commonwealth;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Greek Orthodox Church be and is hereby recognized as a major faith in the Commonwealth of Kentucky, contributing to her moral values and spiritual growth.

Section 2. That the Greek Orthodox Church be so recognized in all matters in which official recognition is accorded other major faiths.

**HR 23** was adopted by voice vote.

**HR 25** taken from the Orders of the Day. Senator Blake moved the adoption of said resolution. Agreed.

**HR 25:** A RESOLUTION memorializing the Congress of the United States to maintain price supports of tobacco at ninety per cent parity.

WHEREAS, the General Assembly of the Commonwealth of Kentucky recognizing that Kentucky is an agricultural state; and

WHEREAS, tobacco is the basic agricultural commodity grown in the Commonwealth of Kentucky; and

WHEREAS, the General Assembly is aware that the economic position of the farmers of Kentucky and of the other states within the United States has reached a dangerously low level; and

WHEREAS, the economic position of the farmers of the United States has reached this low level due to the fact that the level of prices received for agricultural products has steadily declined while the cost of production and the cost of living of the farmers are rising; and

WHEREAS, the purchasing power of the farmers has been impaired and the value of agricultural assets have been greatly decreased; and

WHEREAS, the purchasing power of the farmers and the value of agricultural assets support the national credit structure and therefore is of national public interest; and

NOW THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Congress of the United States is urged to act so as to maintain price supports of tobacco at ninety per cent of parity.

Section 2. That the Senators and Representatives from Kentucky, now serving in the 85th Congress, are requested to oppose any legislation that would set the price support of tobacco at less than ninety per cent of parity.

Section 3. That the Clerk of the House of Representatives is directed to forward copies of this resolution to the President of the United States Senate and the Speaker of the United States House of Representatives, to each of the Senators and the Representatives from Kentucky now serving in the Congress, and to the Secretary of Agriculture of the United States.

**HR 25** was adopted by voice vote.

**HR 30** taken from the Orders of the Day. Senator Howell moved the adoption of said resolution. Agreed.

**HR 30:** A CONCURRENT RESOLUTION memorializing Congress to expedite plans for a flood control program along the Big Sandy River.

WHEREAS, January 29, 1958 marks the anniversary of the most disasterous flood along the Big Sandy River within recorded history;

WHEREAS, the frequent recurrence of devastating floods along said river over a period of years has caused abject and inexpressible misery and despair to citizens of the area;

WHEREAS, such floods have occasioned not only physical suffering and deprivation but have resulted in loss of or damage to inestimable millions of dollars worth of property;

WHEREAS, the health, safety and general welfare of many citizens of the Commonwealth of Kentucky and adjacent states are in constant danger from future depredations of said river and the economic welfare of every citizen of the surrounding area is affected by such depredations; and

WHEREAS, the damage to be expected from future floods can only be averted or mitigated by a coordinated comprehensive program of flood control along said rivers;

NOW, THEREFORE,

*Be it Resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Congress of the United States is urged to act in the exercise of its broad legislative powers to provide a means of flood control along the Big Sandy River and to cause such a program to be put into effect at the earliest possible time.

Section 2. That the Congress act in this regard by making provision for a system of dams and floodwalls along said river and the utilization of any other measures which it deems necessary to accomplish the desired end.

Section 3. That the Clerk of the Senate be and is hereby directed to send copies of this memorial, duly authenticated to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, to each of the Senators and Representatives from the Commonwealth now serving in the Congress, and to the Secretary of the Interior.

**HR 30** was adopted by voice vote.

**HR 43** taken from the Orders of the Day. Senator Duffy moved the adoption of said resolution. Agreed.

**HR 43:** A CONCURRENT RESOLUTION expressing the congratulations of the Senate and House of Representatives of the Commonwealth of Kentucky to "The Escorts" upon the occasion of their appearance as contestants upon the Arthur Godfrey television show "Talent Scouts".

WHEREAS, four native Kentuckians, Jerry Crutchfield, Jan Crutchfield, Gerald Nelson and Olin Bryant, known as "The Escorts", recently honored by being commissioned Kentucky Colonels by the Governor of the Commonwealth of Kentucky, are appearing on the Arthur Godfrey television program known as "Talent Scouts";

WHEREAS, "The Escorts" have been widely acclaimed for their musical artistry and are among the favorite vocal ensembles of the nation; and

WHEREAS, the latest recordings of the group "Arrow Two Hearts" and "Misty Eyes" seem destined for universal popularity;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the vocal group known as "The Escorts" be and are hereby congratulated upon their musical achievements, notable among which is their appearance on the Arthur Godfrey television program "Talent Scouts."

Section 2. That in recognition of such meritorious achievements "The Escorts" be and are hereby designated "Official Kentucky Quartet of the Year."

Section 3. That "The Escorts" be and are hereby invited to appear before the Senate and House of Representatives of the Commonwealth of Kentucky in joint session assembled at some mutually convenient time during the regular session of the 1958 General Assembly.

Section 4. That the Clerk of the House of Representatives be and is hereby directed to cause copies of this Resolution to be forwarded to the Honorable Arthur Godfrey and to each member of "The Escorts" vocal aggregation.

**HR 43** was adopted by voice vote.

**HR 40** taken from the Orders of the Day. Senator Knuckles moved the adoption of said resolution. Agreed.

**HR 40:** A CONCURRENT RESOLUTION extending to General Douglas MacArthur an invitation to address a joint session of the Kentucky General Assembly.

WHEREAS, General Douglas MacArthur, soldier, scholar, statesman and man of letters, has by virtue of outstanding service to our beloved nation, earned the undying gratitude and respect of the citizens thereof, and

WHEREAS, General MacArthur has steadfastly remained true to his convictions, even at the cost of his career, and

WHEREAS, General MacArthur has never hesitated to speak boldly and forcefully in favor of honesty and truth, and has a special interest in the preservation of our American way of life, and

WHEREAS, Kentuckians take a special pride in the exhibition of such sterling traits of character,

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That General Douglas MacArthur be and is hereby invited to address a joint session of the General Assembly of the Commonwealth of Kentucky at his convenience before the present regular session adjourns sine die.

Section 2. That the Clerk of the Senate cause a copy of this resolution to be presented to the said General Douglas MacArthur.

**HR 40** was adopted by voice vote.

### Reference of Bills

The President announced the referral of the following bills:

Health and Welfare: **SB 165, SB 167.**

Executive and Legislative Affairs: **SB 166, SB 169.**

Education: **SB 168.**

Judiciary: **SB 170, SB 171, SB 172, SB 173, HB 23 .**

### Motions

Senator Fields moved to suspend the Rules for the purpose of appointing Honorary Pages in the Senate. Agreed.

Senator Fields moved that Franklin Delano Hollon be made an Honorary Page of the Senate. Agreed.

Lieutenant Governor Harry Lee Waterfield moved that Anne Lawson, Brown, Mark Walden Brown, Harry Lee Rogers, Harry Lee Crawford, Norman Douglas Hippe, Phillip Ray Karsner, Lee Alan Karsner, Ann Russell Hester, and Jack Clark Burch be made Honorary Pages of the Senate. Agreed.

Senator Bassett moved adjournment until 3:00 p.m., Monday, February 17, 1958. Agreed.

## MONDAY, FEBRUARY 17, 1958

## THIRTY-THIRD LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend John C. Chenault of the First Christian Church of Frankfort.

The roll was called. All members present except Senators Byers, Mrs. J. Harry Davis, Johnson, Overbey, Van Hoose, and Warinner, who were granted leave of absence on motion of Senator McCann.

The reading of the Journal for Tuesday, February 11, 1958, dispensed with and the same approved on motion of Senator McCann.

### Motions

Senator Lucas moved suspension of the Rules for the purpose of granting Leon J. Shaikun, a former member of the Senate, the privilege of the floor. Agreed.

### Introductions

**SR 46**, by Senator Francis: A JOINT RESOLUTION authorizing civil action against the Commonwealth of Kentucky and the Department of Welfare, or either of them, in the interest of W. E. Taylor and Mrs. W. E. Taylor.

**SB 181**, by Senator Kidwell: AN ACT relating to the elimination of hazards at railroad-highway crossings by means of grade separation structures or automatic warning devices and providing for allocation and apportionment of the costs of construction, installation and maintenance thereof.

**SB 182**, by Senator Anggelis: AN ACT relating to the conduct of regular elections.

**SB 183**, by Senator Knuckles: AN ACT relating to employment of teachers.

**SB 184**, by Senator Knuckles: AN ACT relating to life insurance.

**SB 185**, by Senator Knuckles: AN ACT relating to public school personnel.

**SB 186**, by Senator Knuckles: AN ACT relating to teachers.

**SB 187**, by Senator Clay: AN ACT proposing to amend the Constitution of Kentucky relating to state officers, involving Sections 91, 93, and 95.

**SB 188**, by Senator Anggelis: AN ACT relating to election challengers.

**SB 189**, by Senators Anggelis, Kelly, Robinson, Hamilton, and Jackson: AN ACT relating to the financing of buildings and appurtenances at state educational institutions and amending Sections 162.350, 162.360, 162.370 and 162.380 of the Kentucky Revised Statutes.

**SB 190**, by Senator Francis: AN ACT making an appropriation for the purchase of free textbooks.

**SB 191**, by Senator Bassett: AN ACT relating to commissioners for the Court of Appeals.

**SB 192**, by Senator Bassett: AN ACT relating to extradition of fugitives from justice.

## Report of Committees

Committee on Labor and Industry reported **HB 119** with the expression of opinion that the same should pass with Committee Amendment attached thereto. Read at length for the first time and ordered placed in the Calendar.

**HB 119**: AN ACT relating to unemployment insurance.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 341.020 of the Kentucky Revised Statutes is amended to read as follows:

*Fund, state, contributions and benefits.* As used in this chapter, unless the context clearly requires otherwise:

(1) "Fund" means the Unemployment Insurance Fund established by KRS 341.490, to which all contributions, and from which all benefits shall be paid;

(2) "State" includes, in addition to the States of the United States of America, Alaska, Hawaii, the District of Columbia, Puerto Rico and the Dominion of Canada;

(3) "Contributions" means the money payments, exclusive of interest and penalties, to the Unemployment Insurance Fund required by this chapter and by any previous unemployment compensation law of this state; and

(4) "Benefits" means the money payments payable to a worker under this chapter and under any previous unemployment compensation law of this state with respect to his unemployment.

Section 2. Section 341.040 of the Kentucky Revised Statutes is amended to read as follows:

*Reserve account, pooled account and annual payroll.* As used in this chapter, unless the context clearly requires otherwise:

(1) "Reserve account" means a separate book account maintained by the Division for each subject employer under KRS 341.530 and 341.540. No amount shall be credited to any reserve account on any date which has not been actually received by the Division by that date, and no benefit amount shall be charged against any reserve account by any date for which a check has not been written and sent by that date.

(2) "Pooled account" means a separate book account maintained by the Division under KRS 341.550.

(3) "Annual payroll" means the total amount of wages paid by a subject employer during a twelve-consecutive-month period for covered employment.

Section 3. Section 341.050 of the Kentucky Revised Statutes is amended to read as follows:

*Covered employment.* (1) As used in this chapter, unless the context clearly requires otherwise and subject to the other provisions of this section, "covered employment" means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied in which the relationship of the individual performing such service and the employing unit for which such services are rendered is, as to those services, the legal relationship of employer and employe.

(2) "Covered employment" includes a worker's entire service performed within or both within and without this state if:

(a) The service is localized in this state; or

(b) The service is not localized in any state, but some of the service is performed in this state, and:

1. The base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or

2. The base of operations or place from which such service is directed or controlled is not in any state in which some part of the services is performed, but the worker's residence is in this state.

(3) Services not covered under subsections (1) or (2) of this section, and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the Federal Government, are covered employment if the worker performing them is a resident of this state and if the Commissioner approves the election of the employing unit for which they are performed that the entire service of such worker shall be deemed to be covered employment.

(4) Service shall be deemed to be localized within a state if:

(a) The service is performed entirely within such state; or

(b) The service is performed both within and without such state, but the service performed without such state is incidental to the worker's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) Unless the employing unit thereof has elected that such services become covered employment under the provisions of subsection (3) of KRS 341.250, "covered employment" does not include:

(a) Agricultural labor;

(b) Domestic service in a private home;

(c) Service performed in the employ of this state, or any political subdivision thereof or of any of its municipalities;

(d) Service performed in the employ of any other state or of any political subdivision thereof, or of the United States Government, and services performed in the employ of a corporation or agency created under an Act of Congress and engaged in the performance of a governmental function and the employes of which are compensated out of funds appropriated by Congress;

(e) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress. The Commissioner may enter into agreements with the proper agencies under such Act of Congress to provide reciprocal treatment to workers who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this chapter;

(f) Service performed by a worker in the employ of his son, daughter, or spouse and service performed by a child under the age of twenty-one in the employ of his father or mother;

(g) Service performed in the employ of a corporation, community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation;

(h) Service performed as a student nurse in the employ of a hospital or a nurses' training school by a worker who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to the laws of this state; and service performed as an interne in the employ of a hospital by a worker who has completed a four years' course in a medical school chartered or approved pursuant to the laws of this state;

(i) Service performed by a worker for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by such worker for such employing unit is performed for remuneration solely by way of commission;

(j) Service performed by a worker under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(k) Service performed by a full-time student who is regularly attending classes at a school, college or university; or

(l) Service not in the course of the employing unit's trade or business performed in any calendar quarter by a worker, unless the cash remuneration paid for such service is fifty dollars or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purpose of this paragraph, an individual shall be deemed to be regularly employed by an employing unit during a calendar quarter only if—

1. On each of some twenty-four days during such quarter such individual performs for such employing unit for some portion of the day service not in the course of the employing unit's trade or business, or

2. Such individual was regularly employed (as determined under 1. above) by such employing unit in the performance of such service during the preceding calendar quarter.

(6) For the purpose of this chapter, if the services performed during one-half or more of any pay period by a worker for the employing unit employing him constitutes covered employment, all the services of such worker for such period shall be deemed to be covered employment; but if the services performed during more than one-half of any such pay period by a worker for the employing unit employing him do not constitute covered employment, then none of the services of such worker for such period shall be deemed to be covered employment. As used in this subsection, the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to a worker by the employing unit employing him. This subsection shall not be applicable with respect to services performed in a pay period by a worker for the employing unit employing him, where any of such service is excepted by subsection (5) (e) of this section.

Section 4. Section 341.065 of the Kentucky Revised Statutes is amended to read as follows:

*Exemption of nonprofit cemetery associations from covered employment.* Unless the employing unit thereof, as defined in KRS 341.060, has elected that such services become covered employment under the provisions of subsection (3) of KRS 341.250, "covered employment," as used in KRS Chapter 341, does not include services performed in the employ of any perpetual care, nonprofit cemetery association, corporation or trusteeship, which perpetual care, nonprofit cemetery association, corporation or its trustees, has not more than four employes, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.

Section 5. Section 341.070 of the Kentucky Revised Statutes is amended to read as follows:

*Subject employer.* As used in this chapter, unless the context clearly requires otherwise, "subject employer" means:

(1) Any employing unit which, in each of three calendar quarters in the preceding calendar year, had in covered employment four or more workers (whether or not the same workers), to as many as four of whom at least fifty dollars in wages was payable to each with respect to such covered employment in each such quarter.

(2) Any employing unit which for some portion of a day (but not necessarily simultaneously) in each of twenty different weeks (whether or not such weeks are consecutive) within either the current or the preceding calendar year, has or had in covered employment four or more workers (whether the same workers are or were employed in each such day).

(3) Any employing unit that succeeds to the organization, trade or business of another employing unit which at the time of such succession is a subject employer; and any employing unit which succeeds to the organization, trade, or business of any previously separate portion of another employing unit, which portion, if treated as a separate employing unit, would be, at the time of the succession, a subject employer under subsections (1) or (2) of this section.

(4) Any employing unit that succeeds to any of the assets of a subject employer's business by any means whatever, otherwise than in the ordinary course of trade, is a subject employer if:

(a) The transferee has continued or resumed the business of the transferor, either in the same establishment or elsewhere; and

(b) The transferee has employed substantially the same workers as those the transferor had employed in connection with the assets acquired; and

(c) The transferee has acquired a previously separate portion of the transferrer's assets, which portion, if treated as a separate employing unit, would be, at the time of the succession, a subject employer under subsections (1) or (2) of this section.

(5) Any other employing unit which has elected to become subject to this chapter, pursuant to subsection (3) of KRS 341.250.

(6) Any employing unit which has in covered employment within this state workers subject to the Federal Unemployment Tax Act.

(7) Any employing unit which, having become a subject employer under subsections (1) to (6) of this section, has not ceased to be a subject employer under KRS 341.250.

(8) Notwithstanding the provisions of this section or any other provision of this chapter, no employing unit shall be initially determined a subject employer on the basis of covered employment performed more than six calendar years prior to the year in which said determination is made, unless the Commissioner can show that the

records of such employment experience were fraudulently concealed or withheld for the purpose of escaping liability under this chapter.

Section 6. Section 341.270 of the Kentucky Revised Statutes is amended to read as follows:

*Determination of employer's contribution rate.* (1) Each subject employer's contribution rate shall be two and seven-tenths percent except as otherwise provided in this section.

(2) No subject employer's contribution rate shall be less than two and seven-tenths percent unless:

(a) Contributions were payable to his account with respect to the thirty-six months immediately preceding the computation date; and

(b) His reserve account balance equals or exceeds five times the largest amount of benefits charged against it within any one of the three years last preceding the computation date.

(3) Except as otherwise provided in this section, for the calendar year 1959 and each calendar year thereafter, employer contributions rates shall be determined in accordance with "Table A" set out in subsection (4) of this section. Prior to each calendar year the Commissioner shall determine, as of the 31st day of October, the fund solvency factor by dividing the "benefit cost ratio" into the "statewide reserve ratio." If such factor:

(a) Equals or exceeds six, the rates listed in "Column B" of "Table A" shall be in effect.

(b) Equals or exceeds three and one-half but is less than six, the rates listed in "Column C" of "Table A" shall be in effect.

(c) Equals or exceeds two and one-half but is less than three and one-half, the rates listed in "Column D" of "Table A" shall be in effect.

(d) Is less than two and one-half, no subject employer's contribution rate shall be less than two and seven-tenths percent and the contribution rate for any subject employer whose individual reserve ratio as of the computation date is less than zero (because benefits have been charged in excess of contributions) shall be four and two-tenths percent.

(4) For the calendar year 1959 and each calendar year thereafter, contribution rates shall be determined upon the basis of an individual employer's reserve ratio as of the computation date and the schedule of rates established under subsection (3) of this section. Except as otherwise provided in this section, the contribution rate for each subject employer for the calendar year immediately following the computation date shall be the rate in that "Column" of "Table A," as set out below, effective with respect to such calendar year, which appears on the same line as his reserve ratio as shown in "Column A" of the same table.

TABLE A

| Employer Reserve Ratio (A) | Rate Schedule (B) | Rate Schedule (C) | Rate Schedule (D) |
|---|---|---|---|
| 5% and over | 0.0% | 0.0% | 0.6% |
| 4.6% but under 5.0% | 0.3% | 0.9% | 1.2% |
| 4.2% but under 4.6% | 0.6% | 0.9% | 1.8% |
| 3.8% but under 4.2% | 0.9% | 1.8% | 2.7% |
| 3.3% but under 3.8% | 1.5% | 1.8% | 2.7% |
| 2.0% but under 3.3% | 2.1% | 2.7% | 2.7% |
| 0.0% but under 2.0% | 2.7% | 2.7% | 2.7% |
| Less than 0.0% | 3.2% | 3.7% | 4.0% |

(5) As used in this section and elsewhere in this chapter, unless the context clearly requires otherwise:

(a) "Trust fund balance" means the amount of money in the Unemployment Insurance Fund, exclusive of monies transferred to the fund under the provisions of the Federal Employment Security Administrative Financing Act of 1954, which have been appropriated or are subject to appropriation by the legislature. In determining the amount in the fund as of a given date all money received by the Division as of such date shall be considered as being in the fund on such date.

(b) "Taxable wages" means the payroll or payrolls by which contributions were measured for a specified period.

(c) "State-wide reserve ratio" means the percentage ratio obtained by dividing the taxable wages for the twelve months ending on the 30th day of September into the "trust fund balance" as of the immediately following 31st day of October.

(d) "Benefit cost ratio" means the percentage ratio obtained by dividing the taxable wages for the sixty months ending on the 30th day of September, which have been reported to the Division on or before the immediately following 31st day of October, into the total amount of benefits paid from the fund during that same sixty months period.

(e) An employer's "reserve ratio" means the percentage ratio of his reserve account balance as of the computation date to his taxable payrolls for the thirty-six months last preceding such computation date.

(f) An employer's "reserve account balance" means the amount by which contributions credited to his reserve account exceed benefits charged to such account. If benefits charged to an account exceed contributions credited to such account as of the computation date, such account shall be considered as having a debit balance and a reserve ratio of "less than zero."

(g) "Computation date" means the date, occurring at least once in each calendar year and within twenty-seven weeks prior to the effective date of new rates of contribution, as of which individual employer contribution rates are computed. The Commission shall by regulation prescribe the computation date.

Section 7. Section 341.350 of the Kentucky Revised Statutes is amended to read as follows:

*Conditions of qualification for benefits.* An unemployed worker shall, except as provided in KRS 341.360 and 341.370, be eligible for benefits with respect to any week of unemployment only if:

(1) He has made a claim for benefits;

(2) He has registered for work with respect to such week in accordance with regulations prescribed by the Commission;

(3) He is physically and mentally able to work;

(4) He is available for suitable work, and making such reasonable effort to obtain work as might be expected of a prudent person under like circumstances;

(5) His base-period wages in that calendar quarter of his base period in which such wages were highest are equal to at least two hundred and fifty dollars, and his total base-period wages are not less than one and three-eighths times the base-period wages paid to him in such quarter and he was paid base-period wages in the last six months of his base on period equal to at least eight times his weekly benefit rate.

(6) He has served a waiting period of one week of unemployment within his benefit year. No week of unemployment shall be counted as a waiting period unless the worker has satisfied the conditions of subsections (1), (2), (3), (4) and (5) of this section.

(7) The foregoing eligibility requirements and the conditions of benefit disqualifications imposed by KRS 341.370 shall be strictly construed.

Section 8. Section 341.370 of the Kentucky Revised Statutes is amended to read as follows:

*Conditions of benefit disqualification.* (1) According to the circumstances in each case, a worker shall be disqualified from receiving benefits or serving a waiting period:

(a) For not less than one nor more than sixteen weeks immediately following the commission of the disqualifying act, if, subsequent to his most recent work, he has failed without good cause either to apply for available, suitable work when so directed by the employment office or the Commissioner or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the Commissioner;

(b) For not less than six nor more than sixteen weeks immediately following the commission of the disqualifying act, if he has left his most recent suitable work voluntarily without good cause; or

(c) For not less than six nor more than sixteen weeks immediately following the commission of the disqualifying act, if he has been discharged for misconduct connected with his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct.

(2) A worker shall be disqualified from receiving benefits or serving a waiting period for the duration of any period of unemployment with respect to which:

(a) He was discharged for dishonesty in connection with his most recent work.

(b) He voluntarily quit his most recent work to marry or for the purpose of attending school, or to become self-employed.

(3) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits; and, within the succeeding twenty-four months, for such additional weeks immediately following the date of such determination, not to exceed a total of fifty-two, as may be determined by the Commissioner.

(4) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) or subsection (2) of this section unless the employer, within a reasonable time as prescribed by commission regulation, notifies the Division and the worker in writing of the alleged voluntary quitting or the discharge for misconduct; provided, however, that nothing in this subsection shall restrict the right of the Commissioner to disqualify a worker whose employer has refused or failed to notify the Division of the alleged voluntary quitting or discharge for misconduct if such alleged voluntary quitting or discharge for misconduct is known to the Commissioner prior to the time benefits are paid to such worker; provided further, that the exercise of such right by the Commissioner, in the absence of timely notice from the employer, shall not relieve the employer's reserve account of benefit charges under the provisions of KRS 341.530 (3).

(5) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base on period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding such week of unemployment was intermittent or temporary in nature, most recent work may be construed as that work last preceding such intermittent or temporary work.

Section 9. Section 341.380 of the Kentucky Revised Statutes is amended to read as follows:

*Payment of benefits; amount.* (1) All benefits shall be paid through employment offices, or such other agencies designated by regulations of the Commission. Claims for all payments of benefits shall be made in accordance with regulations of the Commission.

(2) Benefits payable to an eligible worker for weeks of unemployment shall, except as provided in KRS 341.390, be at the rate in Column "C" of "Table B" on the same line on which, in Column "B", there appears the amount of base-period wages paid to him in that calendar quarter of his base period in which such base-period wages were highest.

TABLE B

| Wage Class (A) | High Quarter Wages (B) | Weekly Benefit Rate (C) |
|---|---|---|
| 0 | Less than $250.00 | $ 0.00 |
| 1 | $250.00 – 262.50 | 10.00 |
| 2 | 262.51 – 287.50 | 11.00 |
| 3 | 287.51 – 312.50 | 12.00 |
| 4 | 312.51 – 337.50 | 13.00 |
| 5 | 337.51 – 362.50 | 14.00 |
| 6 | 362.51 – 387.50 | 15.00 |
| 7 | 387.51 – 412.50 | 16.00 |
| 8 | 412.51 – 437.50 | 17.00 |
| 9 | 437.51 – 462.50 | 18.00 |
| 10 | 462.51 – 487.50 | 19.00 |
| 11 | 487.51 – 512.50 | 20.00 |
| 12 | 512.51 – 537.50 | 21.00 |
| 13 | 537.51 – 562.50 | 22.00 |
| 14 | 562.51 – 587.50 | 23.00 |
| 15 | 587.51 – 612.50 | 24.00 |
| 16 | 612.51 – 637.50 | 25.00 |
| 17 | 637.51 – 662.50 | 26.00 |
| 18 | 662.51 – 687.50 | 27.00 |
| 19 | 687.51 – 712.50 | 28.00 |
| 20 | 712.51 – 737.50 | 29.00 |
| 21 | 737.51 – 762.50 | 30.00 |
| 22 | 762.51 – 787.50 | 31.00 |
| 23 | 787.51 – 812.50 | 32.00 |
| 24 | 812.51 – 837.50 | 33.00 |
| 25 | 837.51 or over | 34.00 |

(3) The maximum amount of benefits payable to any worker within any benefit year shall be the amount equal to whichever is the lesser of (1) twenty-six times his weekly benefit rate or (2) one-third of his base-period wages, except that no worker's maximum amount shall be less than fifteen times his weekly benefit rate. Such maximum amount, if not a multiple of one dollar, shall be adjusted to the nearest multiple of one dollar.

Section 10. Section 341.450 of the Kentucky Revised Statutes is amended to read as follows:

*Judicial review.* (1) Except as provided in KRS 341.460, within twenty days after the date of the decision of the Commission, any party aggrieved thereby may, after exhausting his remedies before the Commission, secure judicial review thereof by filing a complaint against the Commission in the circuit court of the county in which the claimant was last employed by a subject employer whose reserve account is affected by such claims. Any other party to the proceeding before the Commission shall be made a defendant in such action. The complaint shall state fully the grounds upon which review is sought, assign all errors relied on, and shall be verified by the plaintiff or his attorney. The plaintiff shall furnish copies thereof for each defendant to the Commission, which shall deliver one copy to each defendant.

(2) Summons shall issue upon the complaint directing the Commission to file answer within twenty days after service thereof. Such summons shall be served upon a member of the Commission, or upon such person as the Commission designates, and such service shall be deemed complete service upon all members of the Commission. The Commission may be represented by any qualified attorney designated by the Commission for that purpose or, at the request of the Commission, by the Attorney-General. With its answer, the Commission shall certify and file as an exhibit with the court all documents and papers, and a transcript of all testimony taken in the matter, and orders made therein, together with its findings of fact and decision therein. If consented to by the plaintiff and the adverse party, an abstract of any portion of the record may be certified by the Commission in lieu of certifying such portion of the record in full. The Commission may certify to the court questions of law involved in any decision by it.

(3) Such actions, and the questions so certified, shall be heard by the court in a summary manner upon the record certified by the Commission. The court on its own motion or on the motion of an interested party shall assign a date certain for the review, irrespective of the regular term of court. The clerk of the court shall notify the attorneys of record, the date assigned for review at least ten days in advance thereof. The court shall enter judgment, affirming, modifying, or setting aside the order and the decision appealed from, or determining the question of law certified to it by the Commission, and may in advance of judgment, remand the case to the Commission for further proceedings in accordance with the direction of the court.

(4) An appeal may be taken from the decision of the circuit court to the Court of Appeals, in the same manner, but not inconsistent with the provisions of this chapter, as is provided in equity cases.

(5) It shall not be necessary, in any judicial proceeding under this section or KRS 341.460, to have entered exceptions to the rulings

of the Commission, and no bond shall be required for entering such appeal. Upon the final determination of such judicial proceeding, the Commission shall enter an order in accordance with such determination. A petition for judicial review shall not act as a supersedeas or stay unless the Commission shall so order.

Section 11. Section 341.490 of the Kentucky Revised Statutes is amended to read as follows:

*Unemployment Insurance Fund, establishment and control.* (1) There shall be a special fund known as the Unemployment Insurance Fund which shall be administered separate and apart from all public money or funds of this state. This fund shall consist of:

(a) All contributions and money collected under this chapter, except those imposed under KRS 341.290 and fines, penalties, and interest on delinquent contributions collected under KRS 341.300;
(b) Interest earned upon any money in the fund;
(c) Any property or securities acquired through use of money belonging to the fund;
(d) All earnings of such property or securities;
(e) All money received from the Federal Unemployment Account in the Unemployment Trust Fund in accordance with Title XII of the Social Security Act as amended; and
(f) All money credited to the account of this state in the Unemployment Trust Fund in accordance with Section 903 of the Social Security Act as amended.

(2) All monies in the fund shall be commingled and undivided.

(3) Subject to the provisions of this Act, the Commissioner may have full power, authority and jurisdiction over the fund, including all money and property or securities belonging thereto, and may perform any act necessary or convenient in the administration thereof consistent with this Act.

Section 12. Section 341.530 of the Kentucky Revised Statutes is amended to read as follows:

*Employer reserve accounts.* (1) The Division shall maintain a reserve account for each subject employer, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions paid by the employer on his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

(2) Except as provided in subsection (3) of this section the benefits paid to an eligible worker for a week of unemployment shall be charged proportionately against the accounts of those of his subject employers from whom he has base-period wages. The proportion so used shall be that ratio which is obtained by dividing the base-period wages of a worker from such employer by the total base-period

wages of such worker, adjusted to the nearest multiple of one percent. For the purpose of this subsection a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to and employer's reserve account under such subsection shall be charged against the pooled account if such worker was discharged by such employer for misconduct connected with his most recent work for such employer, or voluntarily left his most recent work with such employer without good cause attributable to the employment, and the employer within a reasonable time, as prescribed by commission regulation, notifies the Division, in writing, of the alleged voluntary quitting or discharge for misconduct.

(4) Each subject employer's reserve account shall, unless terminated, be charged with all benefits paid to eligible workers which are chargeable to such reserve account under subsection (2) of this section. A subject employer's reserve account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the pooled account or to a successor's account as provided in KRS 341.540.

(5) Any subject employer may at any time make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270, which shall be credited to his reserve account, according to the general rules established by the Commission.

Section 13. Section 341.550 of the Kentucky Revised Statutes is amended to read as follows:

*Pooled account.* (1) The Division shall maintain a pooled account to which shall be credited:

(a) All worker contributions;

(b) The emergency amounts diverted from the subject employer's contributions as provided in KRS 341.560;

(c) All realized earnings and gains on investments of the fund;

(d) Except as provided in KRS 341.540, any balance remaining in the reserve account of any previously subject employer after such employer has ceased to be subject to this chapter;

(e) Any payments into or amounts in the fund not allocable to any employer's reserve account; and

(f) Any payments collected under subject (2) of this section.

(2) Any benefits paid through error shall be charged against the pooled account. The repayment of benefits paid erroneously as provided in subsection (1) of KRS 341.415 shall be credited to the pooled account. The pooled account shall be credited with any sums deducted from future benefits as provided in KRS 341.415.

Section 14. Section 341.560 of the Kentucky Revised Statutes is repealed.

Section 15. A new section of Chapter 341 of the Kentucky Revised Statutes is created to read as follows:

A lien of the same nature and upon the same property and having the same force, effect and priorities as that created by KRS 376.010 and 376.140 in favor of persons performing labor is hereby created in favor of the Division to secure the payment of contributions and penalties accruing by reason of the labor performed by such persons. Notice of such lien shall be filed and such lien may be enforced in the same manner and within the same time after such contributions became due as is provided for filing and enforcing the liens created in KRS 376.010 and 376.140.

Section 16. A new section of Chapter 341 of the Kentucky Revised Statutes is created to read as follows:

(1) Any employing unit refusing to make reports required under this chapter within ten days after written notice sent by the Division to such employing unit's last known address by certified mail, notifying such employing unit that this section will be invoked unless such reports are filed, may be restrained or enjoined from continuing in business in this state or employing persons herein until such reports have been made.

(2) Any employing unit actively engaged in business in this state, against which the Division holds a judgment for contributions due under this chapter and upon which an execution has been returned unsatisfied, may, after ten days written notice by the Division sent to such employing unit's last known address by certified mail notifying such employing unit that this section will be invoked unless such judgment is satisfied, be restrained or enjoined from continuing in business in this state or employing persons herein until such judgment has been satisfied or until such employing unit shall have furnished bond with surety approved by the court in a sum equal to the amount of such judgment, plus any other unpaid contributions due under this chapter and such further sum as the court shall deem adequate to protect the Division in the collection of contributions which may become due for the next ensuing six months, said bond to be conditioned upon payment of such judgment and contributions upon such terms and at such time as the court may fix.

(3) Proceedings under the provisions of this section may be instituted upon complaint filed by the Division in the Franklin Circuit Court or any other court of competent jurisdiction in accordance with Kentucky Rules of Civil Procedure, except that no bond shall be required of the Commonwealth or the Division.

Section 17. A new section of Chapter 341 of the Kentucky Revised Statutes is created to read as follows:

(1) Before any contract, exceeding two thousand dollars in amount, is awarded to any person for the construction, alteration, or repair of any public building or public work of the Commonwealth of Kentucky, or any subdivision, county or municipality thereof, such person shall furnish to the contracting agency, county or municipality a payment bond with satisfactory surety, which shall become binding upon the award of the contract to such person, to assure the payment of all contributions under this chapter incurred by such person incident to his performance of such contract.

(2) Nothing in this section shall be construed to limit the authority of any contracting agency, county or municipality to require such other bonds or security as might be elsewhere authorized or deemed desirable.

Section 18. None of the foregoing sections of this Act shall change or affect any determinations made by the Commissioner or the Commission prior to the effective date of such sections, or determinations which will become effective prior to such date.

Section 19. Section 2, Section 11, Section 12, Section 13 and Section 14 of this Act shall become effective as of January 1, 1958, and all other sections hereof shall become effective as of April 1, 1958.

Section 20. Whereas provisions of this Act require that changes be made in the accounts and records of the Division of Unemployment Insurance as of January 1, 1958, and effective administration requires that such changes be made as early in the year as possible, an emergency is hereby declared to exist and this Act shall become effective upon its passage and approval by the Governor.

Amend printed copy of **HB 119** on page 9, section 6, lines 8, 9 and 10 by striking therefrom the following:

"(a) Contributions were payable to his account with respect to the thirty-six months immediately preceding the computation date; and" and substituting therefor the following:

"(a) Benefits were chargeable to his account with respect to the thirty-six consecutive months immediately preceding the computation date; and"

Committee on Labor and Industry reported **SB 136** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 136:** AN ACT relating to mining regulations.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 352.240 of the Kentucky Revised Statutes is amended to read as follows:

(1) The use of black powder and dynamite for firing shots is prohibited in all underground coal mines in the Commonwealth, ex-

cept that black powder in pellet form may be used for firing shots in conformity with regulations promulgated by the Chief of the Department of Mines and Minerals and under supervision of the chief or his representative expressly designated for such purpose.

(2) Explosives shall be fired only by electric detonators of the proper strength except as provided for in KRS 352.260.

(3) When blasting is done electrically, only permissable single shot blasting units or permissible multiple shot blasting units shall be used unless blasting is done from the surface.

(4) Individual containers used to carry permissible explosives or detonators underground shall be constructed of substantial non-conductive material. The container shall be closed and maintained in good condition. When explosives or detonators are transported underground by locomotive, rope, or shuttle car, they shall be in covered cars or in special containers.

(a) The bodies and covers of special cars and the containers shall be constructed of non-conductive material.

(b) If explosives and detonators are hauled in the same explosive car or in the same special container, they shall be separated by at least a four-inch substantially fastened hardwood partition or the equivalent.

(c) Cardox shells shall not be carried on man-trips.

(d) Where quantities of explosives and detonators are transported in special cars or in special containers in cars, they shall be hauled on a special trip, not connected to any other trip, and shall not be hauled into or out of a mine within five minutes preceding or following a man-trip or any other trip. When traveling with the air current, the explosive trip shall precede the man-trip; when traveling against the air current, the man-trip shall precede the explosive trip.

(5) Explosives and detonators shall be transported underground by belt only under the following conditions:

(a) In the original and unopened case, in special closed cases constructed of non-conductive material, or in suitable individual containers;

(b) Ample clearance shall be provided when transported by belt;

(c) Suitable loading and unloading stations shall be provided;

(d) There shall be an attendant at loading and unloading points and stop controls at these points.

(6) Explosives or detonators shall not be transported on flight or shaking conveyors, or by scraper or mechanical loading machines.

(7) Underground section boxes or magazines shall be of substantial construction and placed in a crosscut or idle room neck at least twenty-five feet from roadways or trolley wires and in a reasonably dry and well rock-dusted place; and when such section boxes or magazines are used, the explosives and detonators shall be kept in

separate boxes or magazines, or if kept in the same box they shall be separated by at least a four-inch substantially fastened hardwood partition or the equivalent. Not more than a forty-eight hour supply of explosives, including any surplus remaining from the previous day, shall be stored underground in such boxes or magazines. Explosives kept near the working faces in individual containers shall be kept not less than fifteen feet from rail or power lines and in a location out of line of blast where they will not likely be subjected to shock. Detonators shall be kept in a separate container under similar conditions. Explosives and detonators shall be kept in their containers fifteen feet apart until removed for use at the working faces.

(8) Boreholes in coal shall not be drilled beyond the back of the cut, nor into the solid rib, roof or floor.

(9) Boreholes shall be cleaned and checked to see that they are placed properly and are of correct depth, in relation to the cut, before being charged.

(10) To prevent blowthroughs, all portions of the boreholes, where the height of the coal permits, shall have a burden in all directions of at least eighteen inches before being fired.

(11) Boreholes shall be stemmed with at least twenty-four inches of incombustible material, or at least two-thirds of the length of the hole shall be stemmed.

(12) Examinations for gas shall be made immediately before and after firing each shot where on-shift shooting is done in gaseous mines.

(13) When blasting coal, charges exceeding one and one-half pounds, but not exceeding three pounds, shall be used only if boreholes are six feet or more in depth, and explosives are charged in a continuous train, with no cartridges deliberately deformed or crushed, with all cartridges in contact with each other, and with the hole stemmed solidly for a depth of at least twenty-four inches.

(14) Shots shall be fired by qualified shot firers.

(15) In mines where shooting is done on shifts, all shots or series of shots shall be fired immediately after charging.

(16) Only wooden tamping bars shall be used when charging holes.

(17) Leg wires of electric detonators shall be kept shunted or the ends twisted together until ready to connect to the firing cable.

(18) Shots shall not be fired from the power or signal circuit while any men are in the mine.

(19) Roof and faces of working places shall be tested before and after blasting on shift.

(20) Ample warning shall be given before shots are fired, and care shall be taken to ascertain that all persons are in the clear. Men shall be removed from adjoining working places when there is danger of a shot blowing through.

(21) Mixed charges shall not be charged or fired in any borehole.

(22) Adobe (mudcap) or other open, unconfined shots shall not be fired in any mine.

(23) Blasting cables shall be well insulated and as long as may be necessary to permit the shot firer to get in a safe place around the corner, short-circuited at the battery end until ready to attach to the blasting unit, staggered as to length or kept well separated when attached to the detonator leg wires, and kept clear of power wires and all other possible sources of active or stray currents.

(24) Where misfires occur with electric detonators, a waiting period of at least five minutes shall elapse before anyone returns to the shot. After such failure, the blasting cable shall be disconnected from the source of power and the battery end short circuited before electric connections are examined. If fuse is used, a waiting period of twelve hours shall elapse before returning to the face. Explosives shall be removed by firing a separate charge at least two feet away from, and parallel to, the misfired charge or by washing the stemming and the charge from the borehole with water, or by inserting and firing a new primer after the stemming has been washed out. A very careful search of the working place, and, if necessary, of the coal after it reaches the tipple shall be made after blasting a misfired hole, to recover any undetonated explosive. The handling of a misfired shot shall be under the direct supervision of the foreman or a competent person designated by him.

(25) The provisions governing the handling, storage and transportation of explosives shall apply to the heater elements of Cardox blasting devices prior to their installation in the shells. Charged Cardox shells shall be transported underground in insulated cars or in insulated boxes placed in ordinary mine cars except where transported on rubber belts and shall be stored on wooden racks, built for that purpose, in a crosscut or an idle room neck, at least ten feet from power lines and haulage tracks. Where Cardox is used for blasting, the following shall apply:

(a) Cardox shells need not be tamped or stemmed;

(b) When Cardox is fired, all persons in the vicinity, including the shot firer, shall be around a second corner or in an equally safe place;

(c) Blasting cables shall be as long as may be necessary to assure the safety of the shot firer, attached only after the charge has been placed in the borehole, and maintained in good repair.

(d) The charge shall be detonated with a permissible shot firing unit;

(e) Cardox shall not be shot off the solid, over heavy rock binders or shale, or in a "tight" shot;

(f) Cardox misfires caused by the failure of the disk to rupture shall not be removed from the hole until after the lapse of five minutes and shall be handled under the supervision of a foreman or other competent designated person;

(g) Misfired shells shall be bled off promptly and marked conspicuously upon removal from the hole.

(26) Where Airdox is used for blasting or breaking down the coal, the following shall apply:

(a) Compressed air shall be conducted from the compressor to within a practical working distance of the face by steel air lines tested to withstand an approximate pressure of twenty thousand pounds a square inch;

(b) Air lines shall be grounded at the compressor, and if possible, at other low-resistance ground connections along the lines, such as at borehole casings. They shall not be connected in any way to tracks, water lines, or other electric power return conductors and shall be suitably insulated where they cross electric wires or underneath the track;

(c) Unions shall be installed in steel air lines at not more than one-thousand foot intervals;

(d) Shut-off valves shall be installed every one thousand feet in all Airdox lines and, in all branch lines, at a point near the main lines;

(e) Airdox lines shall be protected at places where equipment passes over, under, or adjacent to them;

(f) Steel or copper lines shall not be handled or repaired when air pressure is in the line;

(g) Air lines shall be examined periodically for kinks or other weaknesses and replaced immediately when defects are found;

(h) Copper tubing shall be coiled and uncoiled properly. The part of the tubing that is affected by frequent coiling and uncoiling shall be renewed periodically because of the dangers from kinks and crystallization;

(i) Blow-down valves shall not be less than forty-five feet from the face and shall be around a right angle;

(j) Holes for Airdox tubes shall not be drilled on the solid;

(k) The Airdox tube shall be pushed to the back of the drill hole and then withdrawn six to twelve inches to form an air cushion;

(l) When blow-down valves are opened to discharge the Airdox tube, they shall remain open until time to place the tube in the next borehole;

(m) After the breaking down of the coal in any one place, the tube shall be disconnected at once from the air line and not reconnected until ready to be used in the next place;

(n) When an Airdox tube fails to discharge, the copper line leading to the tube shall be disconnected at the blow-down valve, and the tube shall be dragged by means of the copper line to an abandoned place marked with warning signs, and left for twelve hours before any repair work is done thereon;

(o) All persons shall be removed from adjoining working places where there is danger of breaking through and shall be at a safe distance around a right angle, while coal breaking is in progress.

(27) Notwithstanding any provision of this section except subsection (1), the department may authorize the construction, maintenance, operation or conducting of any activity regulated by this section to be constructed, maintained, operated or conducted in a different manner than specified in any provision of this section except subsection (1), when scientific or engineering information is made available to the department substantially indicating that the different manner would afford equal or greater protection and safety than the manner required in any provision of this section.

### Calendar

**HB 67, SB 42, SB 138, SB 40, SB 141, SB 77** were taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that they be read by title only. Agreed by a majority of the members elected. Ordered placed in Orders of the Day.

### Orders of the Day

**SB 13** taken from the Orders of the Day and ordered read at length for the third time. Senator Greene moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Greene moved the Previous Question on **SB 13.** Agreed.

On roll call, the vote was: Yeas 30—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Ware, Willis; Nays 0.

**SB 13** was passed and the title agreed to.

Senator Fields moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 67** taken from the Orders of the Day and ordered read at length for the third time. Senator Willis moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Willis moved the Previous Question on **SB 67.** Agreed.

On roll call, the vote was: Yeas 23—Anggelis, Blake, Blue, Bonn, Cornett, C. H. Davis, Duffy, Fields, Francis, Greene, Hamilton, Hickerson, Howard, Jackson, Kelly, Kidwell, Knuckles, McCann, Miller, Richmond, Robinson, Ware, Willis; Nays 6—Bassett, Clay, Duncan, Howell, Lucas, Reuscher.

**SB 67** was passed and the title agreed to.

Senator McCann moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 114** taken from the Orders of the Day. Senator Bassett moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

Committee Substitute for **SB 60** taken from the Orders of the Day and ordered read at length for the third time. Senator Lucas moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Lucas moved that the Committee Substitute for **SB 60** be adopted. Adopted by voice vote.

Committee Substitute for **SB 60:** AN ACT relating to holidays.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 2.110 of the Kentucky Revised Statutes is amended to read as follows:

(1) The 1st day of January (New Year's Day), the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the 22nd day of February (Washington's Birthday), the 30th day of May (Memorial Day), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the 4th day of July (Independence Day), the first Monday in September (Labor Day), the 12th day of October (Columbus Day), the 11th day of November (Veterans Day), the 25th day of December (Christmas Day) of each year, and all days appointed by the President of the United States or by the Governor as days of thanksgiving, are holidays, on which all the public offices of this Commonwealth may be closed; and subject to the provisions of paragraph 2 hereof, shall be considered as Sunday for all purposes regarding the presenting for payment or acceptance, and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes, placed by law upon the footing of bills of exchange. If any of the days named as holidays occur on Sunday, the next day thereafter shall be observed as a holiday but bills of exchange or other papers may be presented for payment or acceptance on the Saturday preceding the holiday and proceeded on accordingly.

(2) Any bank, trust company, or combined bank and trust company may, at its option, either close or remain open for business on the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the 22nd day of February (Washington's Birthday), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the 12th day of October (Columbus Day), and the 11th day of November (Veterans Day). Any bank, trust company, or combined bank and trust company electing to remain open on such of the above mentioned holidays may do so and as to such bank, trust company, or combined bank and trust company such day or days shall not con-

stitute a holiday within the meaning of the provisions of the negotiable instrument law or any other law of the Commonwealth and such bank, trust company, or combined bank and trust company shall incur no liability by reason of remaining open on such holiday. If any such bank, trust company, or combined bank and trust company elects to close on such holiday, any act authorized, required or permitted to be performed at or by such bank, trust company, or combined bank and trust company, may be performed on the next succeeding business day and no liability or loss of rights of any kind shall result from remaining closed notwithstanding the provisions of any law of this Commonwealth to the contrary. The provisions of this section shall not operate to invalidate or prohibit the doing on any of the aforementioned legal holidays of any act by any person or bank or trust company, or combined bank and trust company, and nothing in this section shall, in any manner whatsoever affect the validity of or render void or voidable the payment, certification or acceptance of a check or any other negotiable instrument or any other transaction by any person or bank or trust company or combined bank and trust company because done or performed during any of the aforesaid holidays, notwithstanding the provisions of any other law of this Commonwealth to the contrary.

(3) No person shall be compelled to labor on the first Monday in September (Labor Day) by any person.

Senator Greene moved the Previous Question on **SB 60** by way of Committee Substitute. Agreed.

On roll call, the vote was: Yeas 27—Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Kelly, Kidwell, Lucas, McCann, Melton, Miller, Reuscher, Robinson, Ware, Willis; Nays 3—Anggelis, Jackson, Knuckles.

**SB 60** was passed and the title agreed to.

Senator McCann moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

### House Message

Announcing passage of **HB 112, HB 35.** Ordered that said bills be referred.

### Introductions

Senator Bassett moved to suspend the Rules for the purpose of introducing bills and resolutions. Agreed.

**SR 47**, by Senator Bassett: A CONCURRENT RESOLUTION requesting a joint meeting of the Senate and the House of Representatives on the nuclear energy potential of the Commonwealth of Kentucky.

WHEREAS, the 1958 General Assembly has under consideration the legislative establishment of a State agency on Nuclear Energy to encourage and support State programs on nuclear development, to develop liaison with Federal agencies, and to promote the peaceful applications of nuclear energy;

NOW, THEREFORE,

*Be it Resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. That the Senate and the House of Representatives of the General Assembly of the Commonwealth of Kentucky shall meet in joint session in the House of Representatives on February 20, 1958 (Thursday), at 1:30 p.m. if agreeable to the House of Representatives of which the Senate will be advised, to hear an address by Mr. S. R. Sapirie, Manager, Oak Ridge Operations, United States Atomic Energy Commission, Oak Ridge, Tennessee, a nationally known expert on nuclear energy, so as to advise the General Assembly of nuclear energy affairs at the Federal level, Kentucky's potential for peaceful adaptations of nuclear energy, and the factors conducive to a favorable climate for the development of nuclear energy.

Section 2. That the General Assembly does express its gratitude and appreciation to Mr. Sapirie for his favor in accepting an invitation to appear and inform the members of the General Assembly on nuclear energy.

Senator Bassett moved the adoption of said resolution. Adopted by voice vote.

**SB 193**, by Senator Clay: AN ACT relating to the Board of Claims.

**SB 194**, by Senator Anggelis: AN ACT concerning fraternal benefit societies, defining certain terms relating thereto, providing for the regulation of fraternal benefit societies and the enforcement of the Act, repealing Chapter 300 of the Kentucky Revised Statutes.

**SB 195**, by Senator Jackson: AN ACT relating to city attorneys.

### Orders of the Day

**SR 8** taken from the Orders of the Day and ordered read at length for the third time. Senator Duffy moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Duffy moved the Previous Question on **SR 8**. Agreed.

On roll call, the vote was: Yeas 31—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Ware, Willis; Nays 0.

**SR 8** was passed and title agreed to.

Senator Duffy moved that the vote by which said resolution was passed be reconsidered and said motion be laid on the table. Agreed.

**SR 20** taken from the Orders of the Day and ordered read at length for the third time. Senator Bonn moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Bonn moved the Previous Question on **SR 20.** Agreed.

On roll call, the vote was: Yeas 28—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Duffy, Fields, Francis, Greene, Hamilton, Hickerson, Howard, Howell, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Ware, Willis; Nays 0.

**SR 20** was passed and the title agreed to.

## Introductions

Senator Miller moved to suspend the Rules for the purpose of introducing a bill. Agreed.

**SB 196,** by Senator Miller: AN ACT relating to registration and purgation in counties containing cities of the first class.

## Orders of the Day

**SB 46** taken from the Orders of the Day and ordered read at length for the third time. Senator Anggelis moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Anggelis proposed an Amendment to **SB 46** as follows:

Amend printed copy of **SB 46** on page 1, section 1, line 13 by deleting the "period at end and substituting a "comma" and adding the following "to be paid out of the county treasury."

Senator Anggelis moved the adoption of said Amendment. Adopted by voice vote.

Senator Anggelis moved the Previous Question on **SB 46.** Agreed.

On roll call, the vote was: Yeas 28—Anggelis, Bassett, Blake, Blue, Bonn, Cornett, C. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Richmond, Robinson, Ware, Willis; Nays 2—Clay, Reuscher.

**SB 46** was passed and the title agreed to.

Senator McCann moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 62** taken from the Orders of the Day. Senator Kidwell moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**HR 42** taken from the Orders of the Day. Senator Bassett moved the adoption of said resolution. Agreed.

**HR 42:** A CONCURRENT RESOLUTION memorializing Congress to make possible the canalization of the Big Sandy River and tributaries.

WHEREAS, the economy of the eastern region of Kentucky has suffered continuously and grieviously by reason of the lack of economical and readily available means of transporting products of the area to market centers;

WHEREAS, such depression in the economy not only causes hardship to citizens of the area but affects citizens of surrounding areas comprising parts of sister states;

WHEREAS, such region abounds in natural resources and would if proper and adequate means of transportation were made available offer numberless and highly attractive sites for establishment and relocation of industrial plants;

WHEREAS, the industrialization of the area is an absolute necessity to any appreciable improvement in economic conditions;

WHEREAS, it appears the only practicable means of establishing adequate and economic transportation is through the utilization of existing waterways, namely the Big Sandy River and its tributaries;

WHEREAS, such river can only be made serviceable for more than very limited transportation by its being deepened and widened to an extent sufficient to permit passage of watercraft of heavy tonnage in volume; and

WHEREAS, the completion of a realistic and extensive program of canalization of the Big Sandy River and its tributaries would be of inestimable benefit to the citizens of the area and of the entire Commonwealth of Kentucky and proportionately to the eastern part of the nation;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Congress of the United States by the exercise of its legislative powers bring about the canalization of the Big Sandy River and its tributaries.

Section 2. That such canalization be completed as expeditiously as possible consistent with orderliness and sound fiscal planning.

Section 3. That the Clerk of the Senate cause copies of this resolution to be sent to the President of the United States Senate, the Speaker of the United States House of Representatives and to each of the Senators and Representatives of the Commonwealth of Kentucky now serving in the Congress.

**HR** 42 adopted by voice vote.

**HR** 48 taken from the Orders of the Day. Senator Bassett moved the adoption of said resolution. Agreed.

**HR** 48: A CONCURRENT RESOLUTION memorializing Congress to enact legislation to provide a minimum dairy support price for the marketing year starting April 1, 1958.

WHEREAS, on December 18, 1957 Secretary of Agriculture Benson announced that dairy price support for the marketing year beginning April 1, 1958 will be at 75 percent of parity;

WHEREAS, the 75 percent of parity will result in a decrease to approximately $3.02 per hundredweight for 3.95 percent butterfat milk from the current support price of $3.25;

WHEREAS, this decrease will reduce dairy income in the State of Kentucky approximately $6,597,000.00;

WHEREAS, on January 16, 1958 the President of the United States in his message to the Congress of the United States for a revised farm, food, and fiber program recommended that the dairy price support should be determined administratively between 60 percent and 90 percent of parity;

WHEREAS, the recommended minimum of 60 percent of parity will result in a decrease to approximately $2.37 per hundredweight for 3.95 percent butterfat milk from the current support price of $3.25;

WHEREAS, this decrease will reduce dairy income in the State of Kentucky approximately $17,582,500.

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring thereins*

Section 1. That the General Assembly of the Commonwealth of Kentucky does hereby memorialize and petition, and does respectfully urge the Congress of the United States to enact legislation to provide that the dairy support price for the marketing year starting April 1, 1958 shall be not less than the current $3.25 per hundredweight for 3.95 percent butterfat milk and that the Secretary of Agriculture shall use a parity equivalent for manufacturing milk based on the thirty-month period July 1946 to December 1948, both inclusive.

Section 2. That the Clerk of the House transmit a duly authenticated copy of this resolution to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Kentucky delegation in Congress.

**HR 48** adoptd by voice vote.

### Reference of Bills

The President announced the referral of the following bills:

Education: **SB 174.**

Ways and Means: **SB 175, HB 205.**

Health and Welfare: **SB 176.**

Revenue and Taxation: **SB 177.**

Municipalities: **SB 178, SB 180.**

Executive and Legislative Affairs: **SB 179.**

Judiciary: **HB 5.**

### Motions

Senator Hamilton moved to suspend the Rules for the purpose of appointing Honorary Pages in the Senate. Agreed.

Senator Hamilton moved that Robert Stevens Beasley, Jimmy Duffy, John Combs, Fred S. York, Cindy Lee Darnell, Brooks Maury, Duane Thomas Wallace, James Christopher Mulholland, Duane Taylor Lucas, Dana Marie Lucas, David E. Lucas, Nancy Lee Benton, Catherine Parker Benton, Nancy Kloosterman, Joe Ann Kloosterman, Riley Thomas Case, Robert Gaines Moore, Carol Hall Gaines, Susan Grover Gaines, Jeff Hall, Chester Lewis, Kathy Phares, Johnny Cooper, and Ellen Cooper be made Honorary Pages of the Senate. Agreed.

Senator Bassett moved adjournment until 1:00 p.m., Tuesday, February 18, 1958. Agreed.

## TUESDAY, FEBRUARY 18, 1958

## THIRTY-FOURTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend John C. Chenault of the First Christian Church of Frankfort.

The roll was called. All members present except Senators Kidwell, Overbey, Warinner, and Young, who were granted leave of absence on motion of Senator Bassett.

The reading of the Journal for Monday, February 17, 1958, dispensed with and the same approved on motion of Senator Bassett.

### Motions

Senator Kelly moved that Mary Elizabeth Waterfield be made an Honorary Page of the Senate. Agreed.

Senator Miller moved that Dennis Lorenz be made an Honorary Page of the Senate. Agreed.

Senator Van Hoose moved that Thomas Cooper Hobbs and Tom Caddy be made Honorary Pages of the Senate. Agreed.

Senator Bonn moved that Stephen Robert Smith and Diane Francis Smith be made Honorary Pages of the Senate. Agreed.

### Introductions

**SR 48**, by Senator Bassett: A CONCURRENT RESOLUTION providing for the continuation by the Legislative Research Commission of the study of the Judicial Department of the Commonwealth.

WHEREAS, Senate Resolution No. 52 adopted by the General Assembly at the 1954 regular session directed the Legislative Research Commission to study the Judicial System of the Commonwealth, and

WHEREAS, Senate Resolution No. 35 adopted by the General Assembly at the 1956 regular session, on recommendation of the Advisory Committee on the Judicial System appointed pursuant to Senate Resolution No. 52, directed the Legislative Research Commission to continue its study of the Judicial Department of the Commonwealth; and

WHEREAS, an Advisory Committee on the Judicial Department appointed pursuant to Senate Resolution No. 35 has made certain recommendations and published findings; and

WHEREAS, it appears from the Governor's message to the 1958 General Assembly, the report of the Advisory Committee on the Judicial Department to the Legislative Research Commission, the latter's transmittal thereof to the General Assembly, and from the report of the Judicial Council that additional concentrated study and further public presentation and discussion are needed to attain a more thorough general understanding of the problems found to exist, and to thereby more adequately assess and evaluate alternative approaches in order to select the most desirable and feasible solutions.

NOW, THEREFORE,

*Be it resolved by the Senate of the Commonmealth of Kentucky, the House of Representatives concurring therein:*

Section 1. That the Legislative Research Commission is authorized and directed to continue to make a careful and impartial study of the Judicial Department of the Commonwealth.

Section 2. That the Legislative Research Commission is authorized to encourage and utilize the advice and assistance of the Court of Appeals, the Judicial Council, the Kentucky State Bar Association, and the members of the Advisory Committee on the Judicial Department with such additional members thereof as the Chairman of the Legislative Research Commission may see fit to appoint.

Section 3. That the Legislative Research Commission shall report to the 1960 regular session of the General Assembly its findings and recommendations as to desirable and feasible statutory and constitutional alterations in the existing courts and judicial system of the Commonwealth.

Senator Bassett moved the adoption of **SR 48.** Adopted by voice vote.

**SR 49,** by Senator Ware: A RESOLUTION expressing the regret of the Senate of the General Assembly of Kentucky at the death of the Honorable Joseph P. Goodenough, Judge of the Kenton Circuit Court.

WHEREAS, the Almighty in his infinite wisdom has seen fit to call for among his people, the Honorable Joseph P. Goodenough, Judge of the Circuit Court of the County of Kenton, and,

WHEREAS, Judge Goodenough has faithfully and well served the people of Covington and Kenton County for 28 years of his life span.

NOW, THEREFORE,

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:*

That it extend its deepest sympathy to the family of Judge Goodenough, the citizens of Kenton County and the Bar Association of Kenton County, in its irreparable loss; and,

FURTHER, BE IT RESOLVED, that the Senate take all cognizance of the many abilities of Judge Goodenough, of his humility and humanity, his love for his fellow man, his ever-present and never-failing good humor, his devotion to his duty and to his community, his high regard for the law and the courts of the land; and,

FURTHER, BE IT RESOLVED, that a copy of this resolution be forwarded to the Kenton Circuit Court, to the Fiscal Court of the County of Kenton, to the Kenton County Democratic Club of which he was a loyal and active member and to the bereaved members of his family, his wife, Mrs. Hilda Cuni Goodenough, and his son, Daniel J. Goodenough, with the assurances that all Kentucky mourns the passing of an able son and distinguished citizen, and,

That when the Senate adjourns today, it adjourns in memory of Judge Joseph P. Goodenough, a public servant who has given much to the Commonwealth he loved and served.

Senator Ware, seconded by Senator Kelly, moved the adoption of said resolution. Adopted by voice vote.

### House Message

Announcing passage of **SR 47, HB 72, HB 85, HB 93, HB 111, HB 151, HB 152.** Ordered that said bills be referred.

### Motions

Senator Duffy moved to suspend the Rules for the purpose of appointing Honorary Pages in the Senate. Agreed.

Senator Duffy moved that Kathy Beckman and Fred Ritchie be made Honorary Pages of the Senate. Agreed.

Senator Howell moved that Linda Gail Howell be made an Honorary Page of the Senate. Agreed.

Senator C. H. Davis moved that Gene Bays and Charles Arthur Davis be made Honorary Pages of the Senate. Agreed.

Senator Ware moved that Timmy Boyle be made an Honorary Page of the Senate. Agreed.

### Introductions

**SB 197**, by Senator Fields: AN ACT relating to the Department of Highways.

**SB 198**, by Senator Fields: AN ACT relating to rehabilitation of the blind.

**SB 199**, by Senator Anggelis: AN ACT relating to Water Districts permitting payment by a district to Farmers Home Administration of the U. S. Government for the purpose of insuring of bonds.

**SB 200**, by Senators Knuckles and Bassett: AN ACT relating to emergencies affecting the public health and welfare due to failure of public utility to furnish sufficient gas for heating purposes during a period of unusual weather; making an appropriation, and declaring an emergency.

**SB 201**, by Senator Bassett: AN ACT relating to veterans' affairs.

**SB 202**, by Senator Bassett: AN ACT relating to the Kentucky Geological Survey.

**SB 203**, by Senator Bassett: AN ACT relating to the Kentucky Water Pollution Control Commission.

**SB 204**, by Senator Bassett: AN ACT relating to tobacco warehouses.

**SB 205**, by Senator Hamilton: AN ACT relating to the standard of time.

**SB 206**, by Senator Hamilton: AN ACT authorizing building and loan associations to form a voluntary mutual co-operative corporation known as "Building and Loan Association Guarantee Fund, Inc.", for the purpose of a guarantee of the shares and investments of the stockholders in building and loan associations, chartered, operated and supervised under Chapter 289 of the Kentucky Revised Statutes, defining its method of doing business, rights, powers, duties, liabilities and supervision.

**SB 207**, by Senator Johnson: AN ACT relating to parking meters.

**SB 208**, by Senator Johnson: AN ACT relating to the practice of medicine.

**SB 209**, by Senator Howard: AN ACT changing the classification of the City of West Point, in Hardin County.

**SB 210**, by Senator Knuckles: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to exemption of property from taxation.

**SB 211**, by Senator Knuckles: AN ACT relating to life insurance companies.

**SB 212**, by Senator Bassett: AN ACT relating to water conservancy.

**SB 213**, by Senator Bassett: AN ACT relating to watershed conservancy districts.

### Reference of Bills

Under an agreed suspension of the Rules, the President announced referral of the following bill:

Appropriations: **SB 200.**

### Recess

Senator Bassett moved that the Senate do now recess for fifteen minutes. Agreed. At the appointed hour, the President of the Senate called the Senate to order.

### Report of Committees

Committee on Ways and Means reported **SB 8** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 8:** AN ACT relating to fourth class cities and annexing or striking off territory thereof.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 81.210 of the Kentucky Revised Statutes is amended to read as follows:

(1) Whenever a fourth-class city desires to annex territory or to reduce the boundaries of the city, the city legislative body shall, by ordinance, accurately define the boundary of the territory proposed to be annexed or stricken off. The ordinance shall be published once each week for three consecutive weeks in a newspaper published in the city or county. If there is no newspaper published in the city or county, the ordinance shall be advertised by handbills posted for at least fifteen days at four or more public places in the city, and at the same number of the most public places within the territory proposed to be annexed or stricken off.

(2) Within thirty days after the adoption, publication and advertisement of the ordinance, a petition shall be filed in the circuit court of the county within which the city is situated, in the name and on behalf of the city, setting forth the passage, publication and advertisement of the ordinance and its object and purposes, together with an accurate description by metes and bounds of the territory proposed to be annexed or stricken from the city, and praying for a judgment to annex the territory or strike it from the city. The petition shall be filed not less than twenty days before the first day of the next succeeding term of the circuit court in that county. Notice of the filing of the petition shall be given in the same manner as notice of passage of the ordinance. The circuit court shall not have jurisdiction of the proceedings unless the required publication or advertisement of the ordinance contains notice of the proposed proceedings in the court. If no defense is made at the first term of the court after the filing of the petition and notice and the court makes no order for granting further time for making defense, the court shall render judgment annexing or striking off the proposed territory.

Committee on Municipalities reported **SB 117, SB 115, SB 119, SB 178** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 117:** AN ACT relating to metropolitan sewer districts and the construction and maintenance of facilities for surface drainage at cost of benefited property and amending Chapter 76 of the Kentucky Revised Statutes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 76.260 of the Kentucky Revised Statutes is amended to read as follows:

(1) When any drainage improvement has been authorized by the board of a metropolitan sewer district and has been approved by all necessary approving agencies, and all objections have been determined, the district shall classify the land in the designated area with reference to the benefit it will receive from construction of the improvement. In making such classification the metropolitan sewer district shall consider the impervious condition of the surface of the land the drainage facilities previously installed and other facts and benefits from feasible uses of the land. All land within the designated area shall be presumed to receive some benefit.

(2) The land benefited, other than impervious areas, may be separated into three classes for purposes of apportioning and assessing the cost of the improvement. The land receiving the highest benefit shall be marked "Class A"; that receiving the next highest benefit, "Class B"; that receiving the least benefit; "Class C". The scale of assessment shall be in the ratio of three, two, and one. Impervious areas shall be classed as "Class AA", and may be assessed at a higher rate than property in "Class A", computed in accordance with established engineering standards, but not greater than double the assessment established for "Class A" land.

(3) After such classification has been approved, the district shall prepare benefit rolls for inspection by interested persons and keep same available in the district's offices. Notice of the preparation and existence of such rolls shall be published three times in a newspaper of general circulation in the territory designated, and shall be posted in three public places in the territory. Any owner of property in the designated territory shall have ten days from the date of publication of the third newspaper notice within which to file written objections to the classification. If any objections are filed, the district board shall, after due notice to the owner, hear, and pass upon said objections.

Section 2. Section 76.270 of the Kentucky Revised Statutes is amended to read as follows:

(1) The cost of any drainage improvement shall be apportioned to the land in the designated area upon the basis of the benefits to real estate in each of said classes on an area basis in each classification. Area shall be determined to the nearest quarter acre, with the minimum assessment for a quarter acre. The apportionment for each property owner shall be computed by the district.

(2) The secretary-treasurer of the district shall notify each property owner by mail as to the amount of the assessment against him for any improvement constructed or on which a bid or bids for construction have been submitted under the provisions of KRS 76.240 to 76.280, or any amendment thereto. Any assessment may be paid in full at any time within thirty days from the date of the mailing of such notice. Every person who fails to pay the full amount of his assess-

ment within thirty days shall be deemed to consent to the issuance of apportionment warrants against him and his property, unless the total assessment be not in excess of fifty dollars. Assessment not in excess of fifty dollars and a payment of fifty dollars on assessments that exceed that sum, must be paid within thirty days from date of mailing such notice. Failure to make such payments in the time provided shall be deemed to be consent by the owner to the issuance of apportionment warrants against his property and him, for the amount due, after deducting the fifty dollars then due and any additional sum paid within the thirty days.

(3) If any assessment of fifty dollars or less, or the first fifty dollars of any larger assessment, remains unpaid after thirty days from the date of the notice, a penalty of 10% shall be added and the amount due shall be certified to the sheriff of the county to be collected by him with the annual bill for county taxes, together with interest at six percent per annum on the amount of the assessment payments from the 31st day after date of the notice until paid.

Section 3. Section 76.275 of the Kentucky Revised Statutes is amended to read as follows:

(1) The secretary-treasurer of a metropolitan sewer district shall make out all apportionment warrants for the costs of construction of such drainage projects and deliver same to the contractor, dating them at the expiration of the thirty-day period for payment, for the unpaid part of the contract price. Such apportionment warrants shall bear interest at the rate of six percent per annum, and shall be payable in equal annual installments, as provided in the resolution, with privilege of paying off the unpaid balance at any time with interest to date of payment. The metropolitan sewer district shall maintain a register of outstanding warrants.

(2) Warrants for the excess over $50.00 shall be issued against the specific property assessed and the owner or owners thereof.

(a) Warrants for the excess over $50.00 or any greater sum paid in cash, shall be payable in not exceeding nine installments (the number to be fixed by resolution.) The installment payments shall be equal in amount except that the minimum amount to be paid on any installment except the last, shall be ten dollars, and the warrant shall be fully paid when the interest has been paid and payments on principal equal the face of the warrant.

(b) A single warrant shall be issued to the contractor and signed by the metropolitan sewer district to cover the assessments of less than $50.00, and the first $50.00 of larger assessments, which are not paid thirty days from the date of notice of such assessment. Such warrant shall be payable only from sums collected by the metropolitan sewer district directly or through the sheriff of the county from the owners of property who have not paid such assessments.

Section 4. Section 76.280 of the Kentucky Revised Statutes is amended to read as follows:

(1) Following the completion of any drainage improvement under the provisions of KRS 76.240 to 76.280, or any amendments thereto, it shall be the duty of the district to keep and maintain all such improvements open, free from obstruction and in good repair, and to make minor improvements thereto. The district may, from time to time, make additional assessments to pay the cost of such maintenance and improvements.

(2) Any particular tract or tracts of land may be reclassified on the basis of a change in imperviousness or other physical condition or additional feasible uses of the land, but no tract shall be reclassified oftener than once in three years. Assessments for maintenance or improvements shall be made in proportion to the classification then in effect. No assessment shall exceed ten percent of the original assessment except for any proportional change by reason of reclassification. Not more than one assessment shall be made in any one fiscal year of the metropolitan sewer district.

(3) Provisions of KRS 76.270 as to notice of assessment, penalties and interest, and collection shall apply to maintenance and improvement assessments.

(4) All drainage assessments together with the interest thereon, any penalties for default in payment thereof, and all costs of collection shall, from the date of the filing of the classification rolls in the office of the county clerk until paid, constitute a lien against the land assessed superior to all other liens except the liens for state, county, city, school and road taxes.

Section 5. A new section is added to Chapter 76 of the Kentucky Revised Statutes to read as follows:

After a drainage improvement has been authorized for a designated area and an assessment made, further proceedings may be taken for additional improvements within any section of the designated area through the same procedure as specified in KRS 76.240 to 76.280 or any amendments thereto. To institute such additional improvement within the designated area it must appear that the original improvement project did not sufficiently relieve the drainage conditions within such section. The additional benefit accruing by reason of such improvement in a section of the previous project, shall not be ground for reclassification of benefits for maintenance under the original project.

**SB 115:** AN ACT relating to parks, playgrounds, and recreation centers in cities and counties.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 97.010 of the Kentucky Revised Statutes is amended to read as follows:

(1) The acquisition, development, maintenance and operation of parks, playgrounds and recreation centers is a proper municipal purpose for all cities and counties. The legislative body of any city or the fiscal court of any county may dedicate for use as parks, playgrounds and recreation centers any lands or buildings owned or leased by the city or county and not devoted to an inconsistent public use and may acquire real property for such purposes by purchase, lease, condemnation or otherwise, at any place reasonably accessible to the inhabitants of the city or county and either within or without the boundaries of the city or the county.

(2) Any two or more cities, or any city and county, may jointly establish, maintain and conduct a park and recreation system. Any school district may join with any city or county in providing and conducting public parks, playgrounds and recreation centers.

Section 2. Section 97.020, of the Kentucky Revised Statutes, is amended to read as follows:

(1) The legislative body of any city or the fiscal court of any county may establish a park, playground and recreation system and may vest the power to provide, maintain and conduct parks, playgrounds and recreation centers in a park board, board of education, playground and recreation board or other existing board. Any board so designated may maintain and equip parks, playgrounds, and recreation centers and the buildings thereon, and may employ trained and qualified park superintendents, playground directors, supervisors, recreation superintendents or other officers and employees as it deems proper. The legislative body of any city or the fiscal court of any county may, by ordinance or resolution, delegate to an established playground and recreation board any powers of authorities provided for herein, which said such board may not presently possess, and in such eventuality said presently constituted board shall thereafter be known as the ________________________________ Board of Parks, Playgrounds and Recreation Centers. Such a board, when delegated such powers, may carry out its powers and duties through separate divisions or may employ or contract for the services of a qualified superintendent of parks, playgrounds and recreation centers, who shall be charged with administrative responsibility for a unified program, subject to the supervision of the board.

Section 3. Section 97.030 of the Kentucky Revised Statutes is amended to read as follows:

(1) If the legislative body of any city or fiscal court of any county determines that the power to provide, conduct and maintain playgrounds and recreation centers shall be exercised by a playground and recreation board, the legislative body or fiscal court may, by resolution or ordinance, establish a playground and recreation board which shall possess all the powers and be subject to all the responsibilities of KRS 97.010 to 97.050. The board shall consist of five per-

sons to be appointed by the mayor or county judge, to serve for terms of five years and until their successors are appointed, except that the members first appointed shall be so appointed that the term of one member shall expire annually thereafter. Vacancies shall be filled in the same manner as original appointments and for the unexpired term.

(2) Where the legislative body in any city or fiscal court in any county has expanded a playground and recreation board through delegation of authority so that the same becomes a park playground and recreation board, and the said authority has been accepted by the playground and recreation board then in existence by resolution, the powers of appointment provided for in Sub Section 1 hereof, shall be exercised by the mayor or county judge in the same manner as is provided for a playground and recreation board. The members of such a unified board shall receive the sum of $20.00 per day for their services but no such board shall be paid for more than fifty-two days in the course of each year. Members shall also receive reimbursement for necessary traveling expenses.

Section 4. Section 97.040 of the Kentucky Revised Statutes is amended to read as follows:

Any authority in which is vested the power to provide, conduct and maintain parks, playgrounds and recreation centers under KRS 97.020, may accept any grant or devise of real estate or any bequest or gift of money or any donation, the principal or income of which is to be used for park, playground or recreation purposes. Money received for such purposes shall, unless otherwise provided by the terms of the bequest, be deposited with the Treasurer or Department of Finance of the City, or in the case of a County Board of Parks Playground and Recreation, with treasurer, elected by said board, who may be paid a salary for his duties, to the account of the authority having charge of said parks, playgrounds and recreation centers and may be disbursed in the same manner as money appropriated for said purposes.

Section 5. Section 97.050 of the Kentucky Revised Statutes is amended to read as follows:

Whenever the legislative body of any city or the fiscal court of any county or one of them in conjunction with a school district establishes a supervised park, playground and recreation system as provided in KRS 97.010 to KRS 97.040, or thereafter by resolution of a fiscal court empowers such a board to supervise and maintain a county forest system as authorized in Chapter 149 of the Kentucky Revised Statutes, the legislative body or the fiscal court or other authority may appropriate money out of the general funds of the city or county or authority for the purpose of expanding, equipping, maintaining and operating such park, playground and recreation and, where authorized, forest system.

Section 6. Section 97.055 of the Kentucky Revised Statutes is amended to read as follows:

For the purpose of establishing or acquiring parks, playgrounds and recreation centers, and appurtances thereto, a playground and recreation board or a park, playgrounds and recreation board shall have the same authority to issue revenue bonds granted to cities by KRS 97.150 to 97.240 and all of the provisions of said section shall be applicable in the case of issuance of revenue bonds by such boards.

Section 7. That there is created a new section to be added to Chapter 97 of the Kentucky Revised Statutes to read as follows:

KRS 97.010 to KRS 97.050, are intended to supplement and provide an alternative method of accomplishing powers given to counties under KRS 97.790 through 97.793 and KRS 149.200 through 149.280 and a park, playground and recreation board established as herein provided, may exercise all powers set forth in the last named sections of the Kentucky Revised Statutes not in conflict therewith.

**SB 119:** AN ACT relating to metropolitan sewer districts and the construction of sewer or drainage facilities at cost of benefited property, and amending Chapter 76 Kentucky Revised Statutes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That Section 76.171 Kentucky Revised Statutes be amended and revised to read as follows:

Where adequate sewers or drains have not been constructed in any territory annexed to a city of the first class since July 1, 1946, the city legislative body may, by ordinance, on recommendation of the board of a metropolitan sewer district which includes such city, construct sanitary sewers, drains or combined sewers within such territory, to connect with the city's sewer or drainage system, at the cost of the area benefited.

Section 2. That Section 76.172 Kentucky Revised Statutes be amended and revised to read as follows:

(1) The ordinance providing for the construction of sewer or drainage facilities shall describe the nature and kind of facilities to be furnished and describe the particular area to be served by the sewer or drains.

(2) The cost of the sanitary sewer, drain or combined sewer shall be assessed against the land in said area according to the number of square feet in any tract within the area described in the ordinance, but on any sanitary sewer, drain or combined sewer to be constructed of greater size than 24 inches in diameter the assessment shall include only the cost equivalent to a sewer of 24 inches diameter on the same slope, depth and materials as the designed sewer.

(3) All land included in said described territory shall be assessed, except any land located so that same cannot physically be served by the intended improvement.

(4) When the board of a metropolitan sewer district determines that such construction of sewer or drainage facilities at the cost of the property owners should be recommended to the board of aldermen of a city of the first class, the metropolitan sewer district shall cause its engineering department to prepare complete drawings and specifications for the work and to keep same available for inspection in its offices.

(5) The actual construction work of the sewers constructed pursuant to such ordinance shall be done by, or under the control of, the metropolitan sewer district.

The cost of the sewers shall include not only construction costs but costs of design, plans, inspection and administration to be paid from the assessment by adding not exceeding six percent to the bid cost of the project with said six percent being paid by the contractor to the metropolitan sewer district.

(6) A lien shall exist against the respective lots or lands to be served for the cost of improvement of the sewer facilities for apportionment as hereinafter provided for, and interest thereon at the rate of six percent per annum superior to all other liens except the liens for state, county, city, school and road taxes.

(7) No error in the proceedings of the city legislative body shall exempt such property from payment after the work has been done as required by either the ordinance or contract, but the city legislative body, or the courts in which suits shall be proceeding shall make all corrections, roles and orders to do justice to all parties concerned. In no event, if the sewer facilities are made as provided, by ordinance or contract, shall the city or the metropolitan sewer district be liable for the cost of sewer facilties without the right to enforce it against the property receiving the benefit.

(8) Upon completion and acceptance of the sewer or drainage facility constructed, the metropolitan sewer district shall apportion the cost of such facility as provided above.

The secretary-treasurer of a metropolitan sewer district shall notify each property owner by mail as to the amount of the assessment against his property for said improvements. Any such landholder may pay his assessment in full at any time within thirty days from the date of mailing of the notice of assessment. Every person who fails to pay the full amount of his assessment to such metropolitan sewer district within thirty days shall be deemed to consent to the issuance of apportionment warrants.

(9) Where any assessment of $100.00 or less remains unpaid at the end of thirty days from the date of notice, a warrant, payable immediately, shall be delivered to the contractor. Where an assessment of more than $100.00 remains unpaid, the warrant shall be

dated thirty days from the notice of the assessment and be payable in not more than ten installments, each payable on the anniversary of the date of said warrant. All warrants shall bear interest at the rate of six percent per annum.

(10) All warrants shall be immediately entered upon a register kept for that purpose by the metropolitan sewer district. The lien shall exist from the date of the apportionment warrant, but a lien shall not be valid against a purchaser for a valuable consideration without notice, unless the apportionment warrant is entered and registered within ten days of its issuance.

(11) When any warrant has been paid, or an offer to pay has been made, the record holder thereof shall release the lien therefor.

Section 3. That another section be added to Chapter 76 Kentucky Revised Statutes reading as follows:

That the city legislative body may, by ordinance, on recommendation of the metropolitan sewer district, require that sewer service pipes be laid from the main pipes and sewer in any public way to each lot abutting on the public way before it is paved or repaved, at the cost of the owners of the abutting lots, the cost to be fixed in the regularly adopted schedule of rates of the metropolitan sewer district for making property service connections. The notice as to completion of the sewer or drain shall include the charge for making the property service connection. Said charge shall be paid within thirty days from date of the notice.

**SB 178:** AN ACT relating to city employes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 90.360 of the Kentucky Revised Statutes is amended to read as follows:

(1) No employe in the classified service of a city of the second or third class shall be dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination, violation of the law involving moral turpitude, or violation of any rule adopted by the city legislative body or civil service commission.

(2) Any person may prefer charges in writing against any employe by filing them with the mayor or other appointing authority who shall communicate the charges without delay to the civil service commission of the city. The charges must be signed by the person making them and must set out clearly each charge. The appointing authority shall, whenever probable cause appears, prefer charges against any employe whom he believes guilty of conduct justifying his removal. Upon the filing of charges the clerk of the civil service commission shall notify its members and serve a copy of the charges upon the accused employe with a statement of the date, place and hour at which the hearing of charges will begin, this hearing not to

be held within three days of the date of the service of charges upon the accused employe. The day on which the charges are served on the accused employe shall count as one of the days of notice. The person accused may in writing waive the service of charges and demand trial within three days after they have been filed with the clerk of the civil service commission.

(3) Upon the hearing the charges shall be considered traversed and put in issue, and the trial shall be limited to the issues presented by the written charges.

(4) The civil service commission shall have the power to summon and compel attendances of witnesses at all hearings by subpoena issued by the clerk of that body and served upon the witnesses by members of the police department of the city or any officer authorized to serve subpoenas, and the civil service commission shall have the power of a justice of the peace to punish for contempt. The accused employe shall have the right to have subpoenaed any witness he may desire, upon furnishing their names to the clerk. As many as ten subpoenas may be served on the request of the accused employe without charge but each additional subpoena requested by him shall be issued by the clerk and served by the police department only upon payment of fifty cents to the city clerk by the employe. The action and decision of the civil service commission on the charges shall be reduced to writing and kept in a book for that purpose and the written charge shall be attached to the book containing the body's decision.

(5) In cases where the head of the department or the appointing authority has probable cause to believe an employe has been guilty of conduct justifying his removal or punishment he shall immediately suspend that employe from duty or from both pay and duty pending trial and the employe shall not be placed on duty or allowed pay thereafter until the charges are heard by the civil service commission.

(6) The civil service commission shall punish any employe found guilty by reprimand or a suspension for any length of time not to exceed six months, or by reducting the grade, if the employe's classification warrants, or by combining any two or more of these punishments, or by dismissal. No employe shall be reprimanded, removed, suspended or dismissed except as provided in this section.

Senator Miller proposed a Minority Report to **SB 117** as follows:

Amend printed copy of **SB 117** on page 5, section 4, line 3, omit subsection (1). Page 5, subsection (2), line 14, omit words "maintenance or."

Senator Miller moved the adoption of the Minority Report in lieu of the Majority Report. Senators Miller and Lucas demanding a roll call, it was so ordered.

On roll call, the vote was: Yeas 6—Byers, Cornett, Knuckles, Lucas, Miller, Van Hoose; Nays 13—Bonn, Clay, Duffy, Francis, Freeman, Hamilton, Hickerson, McCann, Melton, Reuscher, Richmond, Ware, Willis.

The motion was lost.

Committee on Appropriations reported **SB 200** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 200:** AN ACT relating to emergencies affecting the public health and welfare due to failure of a public utility to furnish sufficient gas for heating purposes during a period of unusual weather; making an appropriation, and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The Public Service Commission is authorized to procure, without taking bids and on an emergency basis, sufficient gas of whatever nature may be available, to relieve a shortage in the supply of any muncipality, which threatens the life and health of the citizens of the municipality, and the health of the citizens of this state.

Section 2. Any contracts made under the authority of Section 1 hereof shall be made in the form and with the provisions deemed reasonable by the Chairman of the Public Service Commission.

Section 3. No commitment shall be made under the provisions of this Act for the supply of any gas at the expense of the state except for such supplies as have been furnished between the period February 15, 1958 and March 20, 1958.

Section 4. The amount of $25,000 is hereby appropriated to the Public Service Commission for the implementation of this Act, in addition to any funds heretofore appropriated to or receivable by said Commission. Any funds unused shall revert to the General Fund.

Section 5. Whereas the citizens of Middlesboro are now in desperate straits and are in danger of freezing in the unusually cold weather now existing. An emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

Committee on Ways and Means reported **SB 143, HB 205** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 143:** AN ACT relating to the offense of shoplifting and providing penalties therefor.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. (1) Any person who takes merchandise offered for sale by any store or other mercantile establishment with the intention of converting the same to his own use without paying the purchase price therefor, shall be fined not more than three hundred dollars or imprisoned not more than six months for the first offense. For a second offense he shall be fined not more than five hundred dollars and imprisoned not more than six months, and for a third offense shall be imprisoned not less than one nor more than five years.

(2) Willful concealment of unpurchased merchandise of any store or other mercantile establishment either on the premises or outside the premises of such store, shall be prima facie evidence of concealment with the intention of converting same to personal use without paying the purchase price therefor.

Section 2. A peace officer, merchant or merchant's employee who has probable cause for believing that goods held for sale by the merchant have been unlawfully taken by a person, and that he can recover same by taking the person into custody, may, for the purpose of attempting to effect recovery, take the person into custody and detain him in a reasonable manner for a reasonable length of time. Such taking into custody and detention shall not render the peace officer, merchant or merchant's employee criminally or civilly liable for false arrest, false imprisonment or unlawful detention.

Section 3. Any peace officer may arrest without warrant any person he has probable cause for believing has committed larceny in retail or wholesale establishments.

Section 4. A merchant or merchant's employee who causes the arrest of persons for larceny of goods held for sale shall not be criminally or civilly liable for false arrest or false imprisonment where the merchant or merchant's employee has probable cause for believing that the person arrested has committed larceny of goods held for sale.

**HB 205:** AN ACT relating to holidays.

WHEREAS, the many Grandmother Clubs of the Commonwealth of Kentucky, affiliated with the National Federation of Grandmother Clubs of America, have, in conjunction with the parent organization, the most laudable purposes and objectives as reasons for their chartering and continued existence, among them being encouragement of good citizenship, futherance of social and educational programs and dedication to scientific research directed toward the elimination of children's diseases;

WHEREAS, Grandmothers, as individuals, hold a very special and inviolate place in the hiearchy of families and are the object of universal love, respect and admiration;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The Governor is authorized and requested to issue annually a proclamation calling upon the state officials to display the United States flag on all state and school buildings and the people of the state to display the flag at their homes, lodges, churches, places of business and other suitable places on the second Sunday in October, known as Grandmother's Day as a public expression of the love, esteem and reverence in which grandmothers are held by the citizens of the Commonwealth.

Committee on Banking and Insurance reported **SB 86, SB 155** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 86:** AN ACT relating to Group Life Insurance for Church Congregations.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

The lives of the members of the congregation of any church may be insured as a group under a policy issued to the church subject to the following requirements:

(1) All members of the congregation, or any group or class thereof, shall be eligible for such insurance.

(2) The church shall be both policyholder and beneficiary;

(3) Premiums may be paid by the individuals insured of by the church.

**SB 155:** AN ACT relating to small loan companies.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 288.150 of the Kentucky Revised Statutes is amended to read as follows:

(1) Every licensee may lend any sum of money not exceeding three hundred dollars and may charge, contract for, and receive thereon interest at a rate not exceeding one percent per month on any remainder of the unpaid principal balance of the loan.

(2) No amount whatsoever shall be paid, deducted, or received in advance. Interest shall not be compounded and shall be computed only on unpaid principal balances. The maximum interest permitted on loans shall be computed on the basis of the number of days actually elapsed and for the purpose of such computations a month shall be any period of thirty consecutive days. No further charge whatsoever shall be made for examination, service, brokerage, commission, expense, fee, bonus or any other thing, except the lawful fees actually and necessarily paid out by the licensee to any public official for filing or recording in any public office any instrument securing the loan.

(3) No licensee shall induce or permit any borrower to split up or divide any loan nor permit any one borrower or any husband or

wife individually or together to become indebted to him under more than one contract of loan at the same time if the actual amount of the indebtedness on any one of such contracts is in the amount or of the value of three hundred dollars or less and there is charged, contracted for, or received thereon, directly or indirectly, by any device, subterfuge, or pretense whatsoever, any interest, or consideration therefor greater than six percent per annum.

(4) No licensee shall directly or indirectly charge, contract for or receive any interest or consideration greater than six percent per annum upon any loan in the amount or of the value of more than three hundred dollars, or in any case in which the licensee permits any individual as borrower, endorser, guarantor, or surety for any borrower, or otherwise, to owe directly or contingently, or both, to the licensee at any time the sum of more than three hundred dollars for principal.

Committee on Banking and Insurance reported **SB 131, SB 110** with the expression of opinion that the same should not pass. Committee on Banking and Insurance reported **SB 79** without expression of opinion.

Committee on Labor and Industry reported **SB 130** with the expression of opinion that the same should pass by way of committee substitute. Read at length for the first time and ordered placed in the Calendar.

**Committee Substitute for SB 130:** AN ACT relating to rest periods for women.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. No employer shall require any female to work for more than four (4) hours without rest periods for at least ten (10) minutes. This shall be in addition to the regularly scheduled lunch period. No reduction in compensation shall be made for hourly or salaried employees.

The rest period shall be optional with all employees.

Section 2. Any employer who violates Section 1 of this Act shall be fined not less than ten (10) dollars nor more than fifty (50) dollars.

Committee on Labor and Industry reported **SB 154** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 154:** AN ACT relating to Workman's Compensation concerning lump-sum settlement, when and how made, and amending KRS 342.150.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Whenever compensation has been paid for not less than six months, thereafter, on the application of either party and upon notice to the other party, in any case where the board determines that it will be for the best interests of either party and will not subject the employer or his insurer to an undue risk of overpayment, future payments of compensation or any part thereof may be commuted to a lump sum of an amount which will equal the total sum of the probable future payments so commuted, discounted at two percent per annum on each payment. Upon payment of such lump sum all liability for the payments therein commuted shall cease.

### Calendar

**HB 119, SB 136,** were taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that they be read by title only. Agreed by a majority of the members elected. Ordered placed in the Orders of the Day.

### Orders of the Day

Senator Van Hoose moved that **SB 114** be recommitted. Agreed.

**SB 62** taken from the Orders of the Day. Senator Duffy moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**HB 67** taken from the Orders of the Day and ordered read at length for the third time. Senator Clay moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Clay moved the Previous Question on **HB 67.** Agreed.

On roll call, the vote was: Yeas 32—Anggelis, Bassett, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis; Nays 0.

**HB 67** was passed and the title agreed to.

**SB 42** taken from the Orders of the Day. Senator Ware moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 138** taken from the Orders of the Day and ordered read at length for the third time. Senator Richmond moved that it be read by title only and placed on passage. Agreed by a majority of the members elected.

Senator Richmond moved the adoption of Committee Amendment to **SB 138.**

Amend printed copy of **SB 138** on page 4, section 3 (1), lines 1-18 by striking Section 3 (1) and inserting in lieu thereof:

"Section 3. (1) There is hereby created the Milk Marketing and Antimonopoly Commission, which shall consist of six members. The membership of this commission shall be composed of the Commissioner of Agriculture, Labor and Statistics, who shall hold office ex officio, and five others to be selected by the Governor. Of the five members selected by the Governor, one shall be appointed from a list of four persons submitted by the Director of the Agricultural Experiment Station, two shall be appointed from a list of four persons submitted by the Kentucky Farm Bureau Federation and two shall be appointed from a list of four persons submitted by the Dairy Producers Association of Kentucky. Both the Dairy Products Association of Kentucky and the Kentucky Farm Bureau Federation shall present two names from the first four congressional districts and two names from the second four congressional districts, and one member shall be selected from each of the two groups of congressional districts. All members shall be citizens of the United States and residents of the Commonwealth."

Adopted by voice vote.

Senator Richmond proposed Amendment No. 1 to **SB 138.**

Amend printed copy of **SB 138** on page 4, section 3 (1), line 11 by deleting the word Producers and inserting in lieu thereof the word: "Products"

Senator Richmond moved adoption of said amendment. Adopted by voice vote.

Senator Richmond proposed Amendment No. 2 to **SB 138.**

Amend printed copy of **SB 138** on page 4, section 3 (2), line 21 by deleting the word four and inserting in lieu thereof the word- "five"

Senator Richmond moved adoption of said amendment. Adopted by voice vote.

Senator Richmond proposed Amendment No. 3 to **SB 138.**

Amend printed copy of **SB 138** on page 4, section 3 (2), line 23 by deleting the word one and inserting in lieu thereof the word—"two"

Senator Richmond moved adoption of said amendment. Adopted by voice vote.

Senator Richmond proposed Amendment No. 4 to **SB 138.**

Amend printed copy of **SB 138** on page 6, section 6 (1), line 7 by adding at the end thereof the following language:

Provided, however, that uniform, published quantity discount sales shall not be deemed a violation of this or any other section of this Act; nor shall any rule, regulation or order issued under this Act discriminate, directly or indirectly against any form of container or dispenser.

Senator Richmond moved adoption of said amendment. Adopted by voice vote.

Senator Richmond proposed Amendment No. 5 to **SB 138.**

Amend printed copy of **SB 138** on page 11, section 13 (1), line 21 by adding on to the sentence after the words ice cream mix—the following words "and one quarter mill per dozen frozen novelties."

Senator Richmond moved adoption of said amendment. Adopted by voice vote.

Senator Clay proposed Amendment No. 6 to **SB 138.**

Amend printed copy of **SB 138** on page 10, after Sec. 12, line 6 by inserting the following:

Section 13. (1) A party affected by an order of the board may file a petition for review in the circuit court of the county in which he resides within twenty days after the service of the final decision of the board.

(2) Copies of the petition shall be served upon the board and all other parties of record. The court, in its discretion, may permit other interested parties to intervene. The filing of the petition shall not stay enforcement of the board decision; but the board may do so, or the reviewing court may order a stay upon such terms as it deems proper.

(3) Within twenty days after service of the petition, or within such further time as the court may allow, the board shall transmit to the reviewing court the original or a certified copy of the entire record under review; but, by stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(4) The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the board, not shown in the record, testimony thereon may be taken in the court. The court shall, upon request, hear oral argument and receive written briefs.

(5) The court may affirm the decision of the board or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(a) in violation of constitutional provisions;

(b) in excess of the statutory authority or jurisdiction of the agency;

(c) made upon unlawful procedure;

(d) affected by other error of law;

(e) unsupported by competent, material, and substantial evidence in view of the entire record as submitted;

(f) arbitrary of capricious

Senator Clay moved adoption of said amendment. Adopted by voice vote.

Senator Richmond moved that **SB 138** be recommitted to the Committee on Agriculture and State Fair. Agreed by voice vote.

**SB 40** taken from the Orders of the Day. Senator Bassett moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 141** taken from the Orders of the Day and ordered read at length for the third time. Senator Ware moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Ware moved the Previous Question on **SB 141.** Agreed.

On roll call, the vote was: Yeas 32—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Robinson, Van Hoose, Ware, Willis; Nays 0.

**SB 141** was passed and the title agreed to.

**SB 77** taken from the Orders of the Day and ordered read at length for the third time. Senator Blake moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Blake moved the adoption of Committee Amendment No. 1 to **SB 77.**

Amend printed copy of **SB 77** on page 7, section 7, line 3 by striking the words "other than" and inserting in lieu thereof the word "including".

Adopted by voice vote.

Senator Blake moved the adoption of Committee Amendment No. 2 to **SB 77.**

Amend printed copy of **SB 77** on page 1, line 5 by deleting said Line 5 and inserting in lieu thereof the words: "Department", as used in KRS 186.105 to 186.270, means the Department of Revenue. As used in KRS 186.400 to 186.640, it means the Department of Public Safety.

Adopted by voice vote.

Senator Blake moved the Previous Question on **SB 77.** Agreed.

On roll call, the vote was: Yeas 32—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis; Nays 0.

**SB 77** was passed and the title agreed to.

Senator McCann moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

## Introductions

Senator Fields moved to suspend the Rules for the purpose of introducing bills. Agreed.

**SB 214,** by Senator Fields: AN ACT relating to the Department of Agriculture, Labor and Statistics.

**SB 215,** by Senators McCann and Bonn: AN ACT to provide a pension for members of the General Assembly.

**SB 216,** by Senator Van Hoose: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to exemption of property from taxation.

**SB 217,** by Senator Jackson: AN ACT relating to water districts.

## Reference of Bills

The President announced the referral of the following bills:

Executive and Legislative Affairs: **SB 181, SB 189, SB 191, SB 192, HB 35.**

Suffrage, Elections and Constitutional Amendments: **SB 182, SB 187, SB 188, SB 196.**

Education: **SB 183, SB 185, SB 186.**

Banking and Insurance: **SB 184, SB 194.**

Appropriations: **SB 190.**

Claims: **SB 193.**

Ways and Means: **SB 195.**

Municipalities: **HB 112.**

Senator Bassett moved adjournment until 1:00 p.m., Wednesday, February 19, 1958. Agreed.

## WEDNESDAY, FEBRUARY 19, 1958

## THIRTY-FIFTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend John C. Chenault of the First Christian Church of Frankfort.

The roll was called. All members present except Senators Kidwell, Melton, Warinner, and Young, who were granted leave of absence on motion of Senator Bassett.

The reading of the Journal for Tuesday, February 18, 1958, dispensed with and the same approved on motion of Senator McCann.

### Motions

Senator Hamilton moved that Shan Ellis, Robert Bryant Chandler, David Clarence Coates, Robert Coates, and Charles David Rawlings be made Honorary Pages of the Senate. Agreed.

Senator Greene moved that Lisa Joy Thomas be made an Honorary Page of the Senate. Agreed.

Senator Fields moved that **SB 131** be recommitted to the Committee on Banking and Insurance. Agreed.

### Introductions

**SR 50,** by Senator Bassett: A JOINT RESOLUTION providing for an investigation and study, by the Legislative Research Commission in cooperation with the Kentucky Bankers Association, the American Bankers Association, and interested state agencies, of the Model State Banking Code prepared by the American Bankers Association, with particular reference to its effect on existing Kentucky law.

**SR 51,** by Senator Bassett: A JOINT RESOLUTION authorizing and directing the Legislative Research Commission to make a study of the desirability and feasibility of adopting a Uniform Title Law for motor vehicles.

**SR 52,** by Senator Bassett: A JOINT RESOLUTION authorizing and directing the Legislative Research Commission to make a study of the advisability and feasibility of extending personnel merit system coverage to include the employees of all state agencies.

**SR 53,** by Senator Knuckles: A JOINT RESOLUTION extending to the Sue Yarborough School of the Dance the invitation of the General Assembly to present its pupils in review before the members of the Senate and the House of Representatives of the Commonwealth of Kentucky.

**SB 218,** by Senator Howard: AN ACT relating to unfair trade practices by a cemetery.

**SB 219,** by Senators McCann, Lucas, Kelly, Bonn: AN ACT proposing an amendment to the Constitution of the Commonwealth of Kentucky.

**SB 220,** by Senators McCann and Bonn: AN ACT relating to holidays.

**SB 221,** by Senator Jackson: AN ACT relating to alcoholic beverages.

**SB 222,** by Senator Johnson: AN ACT relating to the gift or bequest of dead bodies or parts thereof.

**SB 223,** by Senator Howell: AN ACT relating to the political rights of employes.

**SB 224,** by Senator Freeman: AN ACT relating to city clerks.

### Report of Committees

Committee on Judiciary reported **SB 144, SB 158** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 144:** AN ACT relating to the payment of expenses of certain stenographic reporters.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Official reporters serving judicial districts comprised of more than one county shall be paid their actual expenses, not to exceed $10.00 per day, when acting outside the county of their residence.

Section 2. After being approved in writing by the circuit judge, claims for such compensation shall be presented to the Commissioner of Finance, and shall be paid out of the General Fund of the State Treasury.

**SB 158:** AN ACT relating to terms of court in the forty-first judicial district.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

The introductory phrase and subsection (41) of Section 23.050 of the Kentucky Revised Statutes are amended to read as follows:

The regular term of each court shall commence in each county at the following named time, and continue, if the business requires it, the number of days hereinafter prescribed:

(41) Forty-first district. Leslie County, at Hyden, on the first Monday in March, eighteen juridical days, on the first Monday after July 4, eighteen juridical days, and on the second Monday in November, eighteen juridical days;

Clay County at Manchester, on the first Monday in January, the first Monday in May, and the first Monday in September, twenty-four juridical days each;

Jackson County at McKee, on the second Monday in February, and the second Monday in June, eighteen juridical days each, and on the second Monday in October, twelve judical days.

Committee on Judiciary reported **SB 51** with the expression of opinion that the same should not pass.

Senator Knuckles, seconded by Senator Greene, moved that **SB 51** be read into the Calendar over the Committee report, and demanded a roll call on said motion.

On roll call, the vote was: Yeas 23—Anggelis, Blake, Blue, Bonn, Cornett, C. H. Davis, Mrs. J. H. Davis, Fields, Freeman, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, McCann, Reuscher, Richmond, Robinson, Van Hoose. Nays 6—Bassett, Francis, Miller, Overbey, Ware, Willis.

The motion carried.

**SB 51** was read at length for the first time and ordered placed in the Calendar.

**SB 51:** AN ACT relating to attorneys at law.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Any veteran of World War II or the Korean conflict who has been graduated with an LLB, or equivalent professional degree, from a law school approved by the American Bar Association or by the American Association of Law Schools, shall be granted a license to practice law by the Clerk of the Court of Appeals, without the necessity of his being examined, provided that such veteran was enrolled in an approved law school during the years of 1941 to 1945 or 1950 to 1952 and had his study of the law interrupted by a call to active duty in the armed forces of the United States and provided that upon his discharge from active duty, under conditions other than dishonorable, such veteran again enrolled at an approved law school and was subsequently graduated therefrom.

Section 2. Whereas it is important to the veterans and the people of the Commonwealth that this measure take effect before the February bar examination, an emergency is declared to exist and this Act shall become effective upon its approval by the Governor.

Committee on Judiciary reported **HB 16** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 16:** AN ACT relating to summoning of jurors.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 29.175 of the Kentucky Revised Statutes is amended to read as follows:

(1) The clerk of each circuit court shall open the sealed envelope containing the jury list for a term, or month, not more than twenty days before the date on which the grand and petit jurors are required to attend and shall make fair copies of the jury list and deliver them to the sheriff in sufficient time to enable him to summon the jurors by the time hereinafter specified. The sheriff shall, at least ten days prior to the date on which they are required to attend, summon the persons to attend. In courts having terms, the judge shall by order specify to the sheriff the number of jurors to be summoned to attend on the first day of the term, and, if less than the full number drawn for jury service are directed to attend on the first day of the term, then the court shall specify the subsequent day in the term on which the remainder shall be summoned to attend. In courts of continuous session, the jurors shall be summoned to attend on the first Monday in the month for which they are drawn or on such day as is ordered by the judge; provided, that the judge by order may direct the sheriff to summon less than the full number drawn to attend the first Monday, and to summon the remainder at a subsequest day. The officer may summon such persons by mail. The summons shall be sealed in an envelope addressed to the prospective juror and mailed to the juror's address by registered or certified mail with return receipt requested. When the return receipt has been received by the sheriff, the service shall be deemed complete.

(2) The list shall be returned by the sheriff seven days in advance of the day upon which the jurors are required to attend, with a certificate thereon of the date and manner in which each juror was summoned. From this list the regular panels of grand and petit juries shall be selected. The court may, in selecting the respective panels, interrogate such persons relative to any matter which it deems pertinent and material to determine their qualifications as jurors.

(3) If the sheriff's return discloses that a persons summoned for jury service is deceased, or was otherwise unable to be served, the court, when the jury list is returned, may draw from the drum an equivalent number of names and the sheriff shall immediately summon such persons.

(4) No sheriff or other officer shall corruptly or through favor or ill will, summon a juror with intent that the juror shall find a verdict for or against any party, or with like intent that a person shall or shall not find an indictment against any particular individual, and he shall not, through favor or ill will, fail to summon a person to act as a juror.

Committee on Health and Welfare reported **SB 122, SB 99,**

**SB 104** with committee amendments attached thereto, **SB 165, SB 101, SB 176, SB 97, SB 167** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 122:** AN ACT relating to the organization of county children's bureaus.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 200.140 is hereby amended to read as follows:

(1) The fiscal court of any county may establish a county children's bureau. When the fiscal court has authorized the establishment of such a bureau by an order duly made and entered, the county judge shall, with the approval of the fiscal court, appoint nine representative citizens of the county who have demonstrated an interest in child welfare, three of whom shall be women, who shall constitute the children's bureau of said county. The original appointees shall be appointed for terms as follows: two each for one year, two each for two years, two each for three years, and three each for four years. At the expiration of these initial terms each appointment thereafter shall be for a four year term. In no event shall a member serve more than two successive full four year terms. Each county bureau shall annually elect a chairman and a secretary from among its members, meet at least monthly and may hold such special meetings as are called by the chairman or by a majority in writing, and majority shall constitute a quorum for the purposes of transacting business.

(2) Members of the county bureau shall serve without compensation but may be reimbursed by the county for all necessary expenses incurred in the discharge of their official duties. The fiscal court shall provide funds for the establishment and maintenance of the county children's bureau and shall provide office space and equipment required for operation of said bureau.

Section 2. KRS 200.150 is amended to read as follows:

(1) The county children's bureau shall appoint an executive director who is fully qualified as a child welfare worker and shall serve so long as satisfactory service is rendered. The executive director shall receive a salary fixed by the bureau.

(2) The executive director may appoint and direct properly trained assistants, clerical staff, and institutional staff to such position as are authorized by the bureau, and all salaries and necessary expenses of the county children's bureau shall be paid from appropriations made by the fiscal court to the county bureau. The executive director shall carry out the policies as developed and recommended by the bureau.

(3) The county children's bureau is empowered to receive, in-

vest, and disburse any and all gifts, grants, and bequests made for the benefit and the operation of the county bureau.

(4) The county children's bureau of two or more counties may, with the approval of their respective fiscal courts, unite in the employment of an executive director and staff; and, in the operation of such institutions, offices, and services as may be deemed necessary, the fiscal court shall agree upon the part of the total expenses which each county shall bear, and in the procedure for the selection and removal of the director and staff, as herein provided.

(5) The county children's bureau may, from time to time, designate persons to serve for stated purposes and periods of time on such special committees as the bureau may deem expedient in the discharge of its duties.

Section 3. KRS 200.160 is amended to read as follows:

The duties of the bureau shall be as follows:

(1) Discover dependent and neglected children in the county, obtain for them benefits of the law, and provide for the care of those assigned as wards of the county by the county judge or juvenile commissioner;

(2) Administer the funds appropriated by the fiscal court, municipal government or derived from gifts, bequests, or grants for child welfare services in the county;

(3) Serve as probation and parole officers, if appointed by the county judge;

(4) Make such investigations and perform such other services pertaining to children as the fiscal court or the county judge directs. In no event shall any member or agent of the county children's bureau enter any home, family, school, or institution without the consent of the home or family, or of the persons in charge of the school or institution, except as ordered by the county judge.

(5) Assist the state child welfare workers in the administrative performance of their duties with reference to children, and perform such services and make such reports with reference thereto as they may request;

(6) Develop policies within the county with respect to the administration and scope of child welfare services;

(7) Recommend an annual budget and present monthly financial statements to the fiscal court; and

(8) Make an annual public report to the fiscal court setting forth specific recommendations as to the needs of children in the county and the present status of children in care.

Section 4. KRS 200.170 is amended to read as follows:

The county children's bureau shall keep a full record with reference to each child received into care to whom service has been extended or concerning whom an investigation has been conducted;

but the names of such persons shall not be published in any newspaper or in any way given publicity, but shall be kept confidential.

Section 5. KRS 200.180 is amended to read as follows:

A full record of the proceedings and transactions of the county children's bureau shall be kept and shall be open for inspection at any time by the members of the fiscal court and by the state child welfare workers.

Section 6. KRS 200.190 is amended to read as follows:

Upon the date of effectiveness of this Act, the county judge in any county containing a children's bureau shall make appointments to the bureau under the terms and provisions of this Act.

Section 7. Section 200.200 of the KRS is repealed.

Section 8. Section 200.210 of the KRS is repealed.

Section 9. Section 200.230 of the KRS is repealed.

Section 10. Section 200.240 of the KRS is repealed.

**SB 99:** AN ACT relating to barbiturate drugs.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. As used in this Act:

(1) The term "barbiturate" means the salts and derivatives of Barbituric Acid also known as Malonyl Urea, having somnifacient or hypnotic action, and compounds, preparations and mixtures of same.

(2) The term "practitioner" means a person licensed under the professional licensing laws of this state to prescribe and administer medicines or drugs.

Section 2. (1) It shall be unlawful for any person to possess, manufacture, sell, dispense, prescribe or administer any bartiturate except as authorized in this Act.

(2) (a) No person shall obtain or attempt to obtain a barbiturate, or procure or attempt to procure the administration of a barbiturate: by fraud, deceit, misrepresentation, or subterfuge; or by the forgery or alteration of a prescription; or by the concealment of a material fact; or by the use of a false name or the giving of a false address.

(b) Information communicated to a practitioner in an effort unlawfully to procure a barbiturate, or unlawfully to procure the administration of such drug, shall not be deemed a privileged communication.

(c) No person shall willfully make a false statement in or regarding any prescription, order, report, or record required by this Act.

(d) No person shall, for the purpose of obtaining a barbiturate, falsely assume the title of or represent himself to be a manufacturer, wholesaler, pharmacist, practitioner, or other authorized person.

(e) No person shall make or utter any false or forged prescription.

(f) No person shall affix any false or forged label to a package or receptacle containing any barbituate.

(3) No person shall bring into, or cause to be brought into, or possess, use, or sell, upon the premises of any penal institution within the Commonwealth of Kentucky, any barbiturate in violation of this Act.

Section 3. Duly licensed pharmacists may sell, dispense and furnish any barbiturate only upon the prescription of a practitioner and then only if the container of such barbiturate bears a label showing the name and address of the pharmacy or pharmacist, the name of the person for whom the barbiturate was prescribed, the date of filling the prescription, and if for an animal, the specie and owner of same. All such prescriptions shall be numbered and filed and retained for at least two years. No such prescription shall be refilled except upon authorization of the prescribing practitioner.

Section 4. A practitioner may possess barbiturates in reasonable amounts, and deliver and dispense same to his patients in the general course of his practice provided the container in which such barbiturates are dispensed bears a label showing the name of the practitioner, the name of the person for whom prescribed, date and directions for use. If prescribed for an animal, the specie and name of the owner shall be shown on the label. The practitioner shall keep a record of such barbiturates received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription.

Section 5. Wholesalers and manufacturers may possess barbiturates for manufacturing and may sell and deliver same at wholesale, accompanied in each case with an invoice or bill of sale, to the following:

(1) Pharmacists.

(2) Practitioners.

(3) For lawful research, teaching, or testing, and not for resale.

(4) Hospitals and institutions where distribution is directed by practitioners.

(5) Federal, state and local governments.

(6) Manufacturers and other wholesalers.

Section 6. Nothing in this Act shall apply to a compound, mixture, or preparation containing salts or derivatives of barbituric acid which is sold in good faith for the purpose for which it is intended and not for the purpose of evading the provisions of this Act if:

(1) Such compound, mixture, or preparation contains a sufficient quantity of another drug or drugs, in addition to such salts or derivatives, to cause it to produce an action other than its hypnotic or somnifacient action; or

(2) Such compound, mixture, or preparation is intended for use as a spray or gargle or for external application and contains, in addition to such salts or derivatives, some other drug or drugs rendering it unfit for internal administration.

Section 7. All records, prescriptions and invoices provided for in this Act shall be preserved for at least two years and open to inspection by authorized representatives of the State Department of Health and the State Board of Pharmacy.

Section 8. This Act shall be administered jointly by the State Department of Health and the State Board of Pharmacy and their authorized agents. The State Board of Health and the State Board of Pharmacy shall make such rules and regulations as are deemed necessary to carry out the intent and purpose of this Act.

Section 9. (1) It is hereby made the duty of the State Department of Health and the State Board of Pharmacy, their officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all city, county, and Commonwealth attorneys, and the Attorney General, within their respective jurisdictions, to enforce all provisions of this Act and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to barbiturates.

(2) For the purpose of enforcing the provisions of this Act, the investigators, inspectors, representatives, and agents of the State Department of Health and the State Board of Pharmacy shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, to require the production of prescriptions, of books, papers, documents, or other evidence, to employ special investigators and to expend funds for the purpose of obtaining evidence. Investigators, inspectors, representatives and agents of the State Department of Health and the State Board of Pharmacy are empowered to remove from the files of any apothecary or other custodian any barbiturate prescription upon tendering a receipt therefor.

(3) It shall be the duty of the State Department of Health to make or cause to be made examinations of samples secured under the provisions of this Act to determine whether or not any provision thereof has been violated.

Section 10. Notwithstanding the existence or pursuit of any other remedy (civil or criminal) the State Department of Health and the State Board of Pharmacy may maintain, in their own name, an action to restrain or enjoin any violation of this Act.

Section 11. On the conviction of any person of a violation of any provision of this Act, a copy of the judgment and sentence, and of the opinion of the court or magistrate, if any opinion be filed, shall be sent by the clerk of the court or by the magistrate to the State Department of Health.

Section 12. (1) Any person who violates any provision of Subsections (2) and (3) of Section 2 of this Act shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than two years nor more than five years, or by a fine of not less than one thousand dollars nor more than five thousand dollars or both.

(2) Any person who violates any provision of this Act, for which a specific penalty is not otherwise provided, shall be punished by confinement in the county jail for one year or by a fine of not less than three hundred dollars nor more than five hundred dollars or both.

Section 13. Subsection (3) of Section 217.010, and Sections 217.460, 217.470, 217.480, 217.490, 217.500, 217.510, 217.520, 217.530, and Subsection (13) of Section 217.990 of the Kentucky Revised Statutes are repealed.

**SB 104:** AN ACT relating to medical care for indigent persons.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The General Assembly of the Commonwealth of Kentucky hereby recognizes and declares that it is an essential function, duty, and responsibility of the Government of this Commonwealth to provide, within its budgetary limitations, for the medical care of its citizenry.

Section 2. As used in this Act unless the context indicates otherwise:

(1) "Council" means the State Advisory Council for Medical Care of the Indigent;

(2) "Dentist" means a person licensed by the State Board of Dental Examiners to practice dentistry in Kentucky;

(3) "Hospital" means any institution licensed as such by the State Board of Health;

(4) "Pharmacist" means a person licensed by the Kentucky Board of Pharmacy to practice pharmacy in Kentucky;

(5) "Public Assistance Recipient" means a person who has been certified by the Division of Public Assistance of the Department of Economic Security as being eligible for, and a recipient of, public assistance under the provisions of Chapter 205 of the Kentucky Re-

vised Statutes or a person whose dependency on such recipient is recognized in the determination of budgetary requirements for such payments;

(6) "General Assistance Recipient" means a person who has been certified by the Division of Public Assistance of the Department of Economic Security as being eligible for, and a recipient of, tax supported public assistance for maintenance other than as provided under the provisions of Chapter 205 of the Kentucky Revised Statutes, or a person whose dependency on such recipient is recognized in the determination of budgetary requirements for such payments;

(7) "Medically Indigent Person" means a person who is domiciled in this state and who is unable, through his own resources or through resources available to him, to provide himself with essential medical care without depriving himself or his dependents of necessary food, shelter, clothing, or the other necessities of life, and who does not fall within the definition of "Public Assistance Recipient" or "General Assistance Recipient" as defined in Subsection (5) or (6) of this section;

(8) "Medical Care" means essential medical, surgical, dental, and nursing services in the home, office, hospital, clinic, or other suitable place, which are provided or prescribed by physicians or dentists licensed to render such service, including drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services, nursing home and convalescent care, and such other essential medical services and supplies as may be prescribed by such person;

(9) "Nursing Home" means any institution licensed as such by the State Board of Health;

(10) "Physician" means any person licensed to practice medicine or osteopathy in Kentucky;

(11) "Federal-State Medical Care Fund" means a trust and agency fund established, maintained, and operated by the Department of Economic Security as an arrangement to meet the cost of medical care for public assistance recipients and into which payments are made in behalf of each public assistance recipient covered by the fund;

(12) "State-County Medical Care Fund" means a trust and agency fund established, maintained, and operated as an arrangement to meet the costs of medical care for general assistance recipients and medically indigent persons and into which payments are made;

(13) "Vendor Payments" means a payment for medical care which is paid by the Department of Economic Security directly to the authorized person or institution which rendered medical care to a public assistance recipient, general assistance recipient, or to a medically indigent person.

Section 3. (1) There is hereby created a State Advisory Council for Medical Care of the Indigent. The council shall consist of eleven members. The Commissioner of Health and the Commissioner of the Department of Economic Security shall be ex-officio members. The other nine members of the council shall be appointed by the Governor and shall hold office for a term of four years and until their successors are appointed and qualify, except that the members appointed to fill the first vacancy occurring for a term beginning July 1, 1958, shall be as follows: Two members shall be appointed for one year, two for two years, two for three years, and three for four years, and the respective terms of the first members shall be designated by the Governor at the time of their appointment. Upon the expiration of the respective terms of the members first appointed, the term of each successor shall be four years or until his successor shall be appointed and qualify. No member of the council shall be a stockholder or have any financial interest in any hospital, nursing home, or related institution. One appointive member of the council shall be a physician licensed to practice medicine in Kentucky and shall be appointed from a list of of three names submitted by the Kentucky State Medical Association. One member of the council shall be a dentist licensed to practice dentistry in Kentucky and shall be appointed from a list of three names submitted by the Kentucky State Dental Association. One member of the council shall be appointed from a list of three names submitted by the Kentucky Hospital Association. One member of the council shall be a pharmacist licensed to practice pharmacy in Kentucky and shall be appointed from a list of three names submitted by the Kentucky State Pharmaceutical Association. One member of the council shall be a registered professional nurse licensed to practice in Kentucky and shall be appointed from a list of three names submitted by the Kentucky State Association of Registered Nurses. The other four appointive members shall be intelligent and discreet citizens residing within the Commonwealth, who are not members of professional groups which are recipients of vendor payments.

(2) Each appointive member of the council shall serve without compensation but shall be entitled to reimbursement for his actual and necessary expenses in attending meetings.

(3) The council shall elect a chairman, vice-chairman, and secretary from among its members at its first regular meeting in each fiscal year and may adopt rules and by-laws for its government. The council shall hold a meeting at least once every three months and such other special or regular meetings as may be desired.

Section 4. The council shall develop, formulate, promote, and recommend to the Commissioner of Economic Security for adoption and execution, policies, plans, budgets, programs, and rules and regulations relating to:

(1) The administration of this Act;

(2) The utilization of facilities and personnel of the Department of Economic Security and the State Department of Health;

(3) The designation, by regulation, of the scope of medical care which the Department of Economic Security will undertake to pay with the one stipulation that payments for general assistance recipients and medically indigent persons shall not exceed 10 percent of the total expenditures under this Act;

(4) The inclusion or exclusion, by regulation, of general assistance recipients or certain classes thereof;

(5) The inclusion or exclusion, by regulation, of medically indigent persons or certain classes thereof;

(6) The designation, by regulation, of quantity and quality standards and methods for determining costs for vendor payments for medical care services;

(7) The designation, by regulation, of the limitations, duration and frequency of medical care and vendor services that may be authorized for payment;

(8) The administration of grants, gifts, and contributions from the federal government, from county fiscal courts, from city legislative bodies, or from other sources, for the purpose of carrying out the intent and purposes of this Act;

(9) The establishment of and contribution to a federal-state medical care fund from funds appropriated from time to time by the General Assembly for public assistance recipients;

(10) The establishment of and contribution to State-County Medical Care Fund from funds appropriated from time to time by the General Assembly for medical care of general assistance recipients and medically indigent persons on a formula contribution basis promulgated by the Department of Economic Security;

(11) The conducting of studies, research, demonstrations, and surveys to carry out the intent and purposes of this Act;

(12) The agreements and contracts for the administration of this Act;

(13) The utilization of facilities and personnel of local health departments and local public assistance offices;

(14) The periodic evaluation of the program and publication of reports thereof; and

(15) The formulation of such modifications, expansions, or contractions in the program as may be desirable or necessary.

Section 5. (1) The scope of medical care for which the Department of Economic Security undertakes to pay shall be designated and limited by regulation. The selection of the class or classes of medical care services shall be recommended by the council to the Commissioner of Economic Security after taking into consideration, among other things, the amount of federal, state, and local funds available and the most essential needs of public assistance recipients, general assistance recipients or medically indigent persons. The scope may:

(a) Be confined to hospital care only; to general practitioners' services only; to specialist services only; or to parts or combinations thereof;

(b) Include home nursing care, dental care, drugs, laboratory services or parts or combinations thereof; or

(c) Include or exclude any part of the services provided for under the definition of the term "medical care" in subsection (8) of Section 2 of this Act.

(2) No vendor payment shall be made unless the class and type of medical care rendered has first been designated by regulation.

(3) The quantity and quality standards and methods for determining costs for vendor payments designated by regulations need not be uniform for the entire state but may vary from county to county and from city to city due to the prevailing cost of medical care in such locale and due to other local economic and geographic conditions.

Section 6. (1) The Department of Economic Security shall retain all responsibility relating to the certification of eligibility of all recipients and with all other fiscal matters relating to this Act.

(2) There is hereby created within the State Department of Health a Division of Medical Care which shall be charged with the responsibility of carrying out the duties of the department under any agreement or contract with the Department of Economic Security.

(3) The Department of Economic Security shall not be charged with responsibility for the mechanism of the medical administration of this Act but shall contract with the State Department of Health for the purpose of carrying out all medical matters relating to this Act including, but not limited to, the certifying of the cost, need, and reasonableness of all medical expenses in accordance with quantity and quality standards and methods.

(4) The Department of Economic Security and Department of Health shall provide to the council such information as it may require for proper evaluation of the operation of the program.

Section 7. As state funds become available, fiscal courts and city legislative bodies shall appropriate and contribute to a State-County Medical Care Fund for general assistance and medically indigent persons of the county. Such appropriations and contributions shall be on a formula basis promulgated by the Department of Economic Security and shall be deemed to be essential governmental expenditures. The formula need not be uniform for the entire state but may vary from county to county and from city to city due to variations in population and economic and geographic conditions including resources, industrialization, tax assessments and tax rates, and other local factors and conditions.

Section 8. (1) The following state-wide technical advisory committees are hereby created for the purpose of acting in an advisory capacity to the State Advisory Council for Medical Care of the Indigent with respect to the administration of this Act;

(a) A Technical Advisory Committee on physician services consisting of five members appointed by the council of the Kentucky State Medical Association. All members shall be physicians licensed to practice medicine in Kentucky;

(b) A Technical Advisory Committee on Hospital Care consisting of five members appointed by the Board of Trustees of the Kentucky Hospital Association;

(c) A Technical Advisory Committee on Dental Care consisting of five members appointed by the Kentucky State Dental Association. All members shall be licensed to practice dentistry in Ketnucky;

(d) A Technical Advisory Committee Nursing Service consisting of five members appointed by the Board of Directors of the Kentucky State Association of Registered Nurses. All members shall be registered professional nurses licensed to practice in Kentucky;

(e) A Technical Advisory Committee on Drugs consisting of five members appointed by the Kentucky State Pharmaceutical Association. All members shall be licensed by the Kentucky Board of Pharmacy;

(f) A Technical Home Advisory Committee on nursing home care consisting of five members appointed by the Kentucky Association of Nursing Homes.

(2) The Advisory Committee members shall serve for terms of five years and until their successors are appointed and qualify.

Section 9. The council of the Kentucky State Medical Association shall appoint a County Medical Care Review Committee for each county of the Commonwealth consisting of three licensed medical physicians. The duties, responsibilities, and terms of office of such committees shall be defined by regulation. Appointments shall be made from a list of three names for each position submitted by each respective county medical society and approved by the Technical Advisory Committee on physician services Section 8 (1) (a) of this Act; provided, however, that the council may, in lieu thereof, designate the physician members of county boards of health to serve in such capacity.

Section 10. Any person who knowingly makes a false statement, or represents or knowingly fails to disclose a material fact or by impersonation or other fraudulent device obtains or attempts to obtain or aids or abets any person to obtain or attempt to obtain, any medical care benefits under the provisions of this Act shall be fined not less than ten dollars nor more than one hundred dollars, or imprisoned for not more than thirty days, or both. Each false statement, representation, failure, or violation, and each benefit payment made in reliance of such false statement, representation, failure or violation, shall constitute a separate offense.

Section 11. Payments into the Federal-State Medical Care Fund shall be irrevocable and shall:

(a) Be beyond the power of the Department of Economic Security to use for any other purpose than that for which it was created; and

(b) Be dedicated to the payment of costs of medical care for public assistance persons. Federal-state medical care funds shall be subject to federal participation as an assistance expenditure for medical care in behalf of public assistance recipients.

Section 12. Payments into the State-County Medical Care fund shall be irrevocable and shall:

(a) Be beyond the power of the Department of Economic Security to use for any other purpose than that for which it was created; and

(b) Be dedicated to the payment of medical care for general assistance recipients and medically indigent persons with respect to which payments are made. State-County Medical Care funds shall be subject to county participation as an assistance expenditure for medical care in behalf of general assistance recipients and medically indigent persons.

Section 13. This Act shall become effective on July 1, 1958.

**SB 165:** AN ACT to provide a unified system for the administration of child welfare services and adoption under a Kentucky Commission for Child Welfare.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. As used in this act, unless the context requires otherwise:

(1) "Commission" means the Kentucky Commission for Child Welfare;

(2) "Director" means the executive director of the Kentucky Commission for Child Welfare;

(3) "Child" means any person who has not reached his eighteenth birthday.

Section 2. There is hereby created the Kentucky Commission for Child Welfare which shall constitute an independent agency of the state government within the provisions of KRS Chapter 12.

Section 3. Effective July 1, 1958 there shall be established the Kentucky Commission for Child Welfare which shall be headed by a governing commission of nine members who shall be appointed by the Governor, to serve part time for staggered, overlapping four-year terms on the following basis:

(1) One member of the Commission shall be a diplomate psy-

chologist, preferably with experience in child psychology, appointed from a list of three names of eligible psychologists nominated by the State Association of Diplomate Psychologists;

(2) One member of the Commission shall be a licensed clinical psychologist, preferably with experience in child psychology, appointed from a list of three names of eligible psychologists nominated by the State Association of Licensed Clinical Psychologists;

(3) Two members of the Commission shall be appointed from a list of three names for each position nominated by the chapters in the state of the National Association of Social Workers;

(4) Three members of the Commission shall be appointed by the Governor from a list of three names for each position, nominated by the Kentucky Citizens for Child Welfare, Inc.;

(5) Two members shall be appointed by the Governor from the state at large from among persons known for their interest in and devotion to child welfare programs;

(6) All nominations and appointments shall be made without reference to political affiliation. The Governor shall be limited in making appointments as provided herein and shall fill vacancies with reasonable dispatch upon receiving nominations. He shall request nominations for the original appointments to the Commission not later than May 1, 1958, and shall make his first appointments on or before July 1, 1958, to take effect July 1, 1958. Thereafter, the Commission itself shall fill vacancies, if the Governor or the nominating groups fail to act to make an appointment within sixty days after a vacancy in the membership of the Commission develops by reason of expiration of term, death, resignation, removal, or for any other reason. Unexpired terms of the Commission members shall be filled by the Governor upon request for nominations of the same group which made the original nominations from which the appointment was made which must be filled. If any member or members appointed refuse to serve, the Governor shall request additional names from the same organizations entitled to make nominations, initially, and the Commission shall proceed to fill the vacancy, if either the Governor or the nominating organization fails to act to fill the vacancy within sixty days;

(7) No appointee or member of the Commission shall be an employee, administrator or officer of any state administrative department, or head of any state institution, nor shall any such appointee or member be a contractor doing business with the state. No such appointee or member shall be head of a private children's institution or agency, a legislator, nor be or have been chairman of any political party committee or a political campaign committee within one year prior to appointment, or serve on such political committee during tenure on the Commission;

(8) Members appointed to the Commission shall be removed by the Governor for inefficiency, neglect of duty, malfeasance in of-

fice, and only after charges have been made in writing by the Governor, with concurrence of a majority of the Commission members, with opportunity for the Commission member to answer in writing, and a hearing has been held before the Governor and a majority of the Commission with publication of findings of facts by the Governor before his order of removal is made.

Section 4. At the first meeting of the Commission on July 1, 1958 all members of the Commission shall draw lots to determine the length of term each shall serve so that the terms of two members shall expire at the end of one year, the terms of three members shall expire at the end of two years, the terms of two members shall expire at the end of three years, and the terms of two members shall expire at the end of four years. After the first year all appointments, except those to fill vacancies, shall be for a period of four years.

Section 5. The Commission shall hold regular meetings announced in advance to all members, the said meetings being open to the public. The Commission shall keep a record of its proceedings, which shall be open to public inspection at reasonable hours. Special meetings may be called by the chairman at his discretion and with advance notice to members, or shall be called upon the written request of not less than three members of the Commission. The Commission shall elect its chairman annually and shall select its own secretary. Decisions of the Commission shall be by majority vote of those present, if they constitute a quorum; a quorum shall consist of a majority of the entire membership, and it shall be necessary to have a quorum present to transact business at any meeting. Members who miss three consecutive meetings, except for reasons acceptable to the Commission, shall be deemed to have vacated their offices. Commission members shall rceive a per diem compensation of $35.00 for each Commission meeting which they attend and their necessary expenses to and from their homes to the place of meeting by the most direct route.

Section 6. The Commission shall be solely responsible for the formulation of policy with respect to the state's child welfare programs and responsibilities, institutional facility administration and uses, licensing responsibilities, adoption programs, personnel management within its agency, fiscal administration under the state statutes governing budget requirements, accounting, purchasing, and the acquisition of property. The Commission shall be solely responsible for its relationship with the federal government and compliance with federal statutes and grant-in-aid requirements with other state departments and agencies, with other states, with local units of government within the Commonwealth, with private agencies within the Commonwealth, with citizen's organizations, with the General Assembly, with the courts of the Commonwealth, with the Governor, with the general public, and with the press.

Section 7. The Division of Children's Services of the Department of Economic Security and the Division of Children's Institutions of the Department of Welfare, together with their personnel, properties, facilities, equipment, records, funds, and appropriations heretofore granted them under the statutes are hereby transferred to and made a part of and subject to the Kentucky Commission for Child Welfare.

Section 8. Section 195.020 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

(1) The department shall exercise all functions of the state in relation to:

(a) Administration and supervision of state unemployment insurance;

(b) Administration and supervision of state employment offices;

(c) Administration and supervision of all forms of public assistance including general home relief, outdoor and indoor care for persons in need, old age assistance, and aid to the blind and otherwise handicapped.

(2) All administrative functions of the nature outlined above, heretofore performed by other agencies of the state, are hereby transferred to and shall hereafter be performed by the Department of Economic Security.

Section 9. Section 196.030 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

(1) The department shall, unless otherwise provided by law, exercise all functions of the state in relation to:

(a) Management of penal, reform and correctional institutions;

(b) Management of state institutions for feeble-minded persons;

(c) Supervision of probation and parole;

(d) Supervision of juvenile probation;

(e) Control and care of feeble-minded persons committed to the department;

(f) Operating a laboratory of criminal identification and statistics;

(g) The giving of assistance to other departments, agencies and institutions of the state and federal governments, when requested, by performing services in conformity with this section;

(h) Acting as the agent of the federal government in matters of mutual concern, and in the administration of any federal funds granted to the state to aid in the performance of any function of this department.

(2) The provisions of this section shall not apply to any institution, home or agency which does not receive aid from the state, or a county or municipality.

Section 10. Section 208.400 of the Kentucky Revised Statutes is hereby repealed, effective July 1, 1958.

Section 11. The funds appropriated by the General Assembly and those granted by the federal government, as well as any funds received from private sources or state revolving funds, shall be held in the name of the Kentucky Commission for Child Welfare and the Commission shall have full power, within the discretion permitted by federal or state law, to transfer funds from one program to another. The Commission shall immediately upon its creation and thereafter conform in all respects to federal merit requirements in its personnel management program and in all other respects dealing with the development of program and management of funds and do all things necessary to qualify for grants-in-aid for child welfare made by the Congress of the United States.

Section 12. The budget for the Commission shall be presented to the Department of Finance and the Governor in the name of the Commission upon its approval by a majority of the Commission at a regular meeting announced in advance as being one held particularly for the ascertainment of a suitable budget. The Commission shall formulate a budget adequate to achieve the purposes of administering a child welfare program in keeping with enlightened, modern standards of service and care.

Section 13. The Commission shall exercise quasi judicial powers in hearing appeals of denial or revocation of licenses to operate children's homes or child placement institutions or agencies. The Commission shall adopt rules and regulations governing the procedure for hearings which shall be published so that they may be known to all parties affected thereby.

Section 14. The Commission shall have the power to adopt rules and bylaws for its own governmental functions and shall have the sole power at any time to reorganize its own internal agency structure in such ways as may best serve, in the opinion of the Commission, the execution of its responsibilities and the improvement of administration of its program.

The Governor shall at no time have any power to reorganize the Commission or remove any of its units, functions or powers by executive order, or otherwise, notwithstanding any provision of the Kentucky Revised Statutes to the contrary.

The Commission shall review the program and administration of its agency and shall require an annual report from the director not later than the first day of November. The Commission shall publish a regular biennial report to the Governor and General Assembly which it shall also make available to the press and public. The Commission may publish other reports and documents from time to time to the extent it determines and its budget permits.

The Commisison shall have the power to make rules and regulations within the purview of this act and other statutory authority in connection with child welfare services and institutional programs herein granted.

The Commission shall have power to enter into contracts in behalf of the state with public or private agencies, institutions, foundations, universities, and individuals for the promotion of research projects, development and training of its staff, and educational programs in child welfare.

The Commission shall also have the power to enter into contracts with public or private child care institutions or agencies for the care and placement of children.

The Commission shall appoint an executive director who shall be solely responsible to the Commission, to administer, direct and coordinate the work of the agency and its employees, and his appointment shall be in strict accordance with all the requirements of the merit system.

The executive director shall be in accord with and accept the policies and programs for child welfare established by the Commission. The power to remove the executive director shall rest solely with the Commission but, in case of dismissal, the removal shall be for cause with notice in writing of the reasons for removal and with opportunity for said executive director to answer in writing and to be heard in person or by counsel before the Commission. Failure or refusal to carry out the policies of the Commission shall constitute grounds for dismissal as well as other grounds for dismissal set forth in civil service regulations.

Section 15. The executive director of the Commission shall be selected by the Commission from a register of those certified to the Commission as having passed the competitive examination prescribed for this position. The executive director shall have at least a master's degree in social work, shall have had several years experience in responsible administration of a child welfare agency or program and shall possess such other qualifications as the Commission for Child Welfare shall prescribe. The executive director shall have civil service status and tenure upon satisfactory completion of a probationary period as prescribed by the Commission.

Section 16. The executive director shall be responsible to the Commission for Child Welfare for administration and coordination of all agency programs and direction and supervision of all employees of the Commission. He shall be the official spokesman for the Commission except on matters of broad policy, enunciation and appeals of decisions on licensing, which matters shall be announced by the Commission itself and it shall be the director's responsibility and duty to interpret and apply Commission policies to agency employees, make decisions on cases referred to or committed to the agency, develop agency procedures within the framework of Commission policies and give continuity to the substantive direction of the Commission's work. He shall have authority to select, promote, transfer and dismiss all Commission employees under him in conformity with civil service procedures and regulations, to issue directives and orders within the agency, to delegate authority to his assistants and subordinates which he deems necessary, to prepare the budget and present it to the Commission for approval, to formulate organization and reorganization plans for the agency and recommend same to the Commission for adoption, to develop and adopt administrative procedures for the Commission and develop and install record keeping systems, to prepare manuals of procedures, to prepare an annual report to the Commission and to assist the Commission in the preparation of its biennial report to the Governor and General Assembly, to join on behalf of the Commission in national and state professional organizations and to plan professional development of the Commission staff in all appropriate ways, to attend professional meetings and conferences for consideration of problems of administration and development of child welfare services and programs, and to do all things necessary to carry on the general administration and personnel management of the Kentucky Commission for Child Welfare. He shall be empowered to provide consultant services in respect to child welfare programs to local governmental units within the state and to coordinate and promote cooperative programs in child welfare with local units of government and private social work agencies and child care institutions.

Section 17. (1) The members of the Kentucky Commission for Child Welfare shall constitute a civil service commission for the Kentucky Commission for Child Welfare and shall have the power to make any and all regulations pertaining to the services and requirements of all the employees of the Commission.

(2) The Commission shall prescribe, propound and conduct such examinations as are properly commensurate with positions within the Commission and shall be empowered to appoint necessary clerks to carry out the requirements of this in regard to civil service examinations.

(3) The time and place for holding such examinations shall be fixed by the Commission and notice thereof shall be given at least ten days prior to the fixed date by announcements through newspapers of the state, through press releases, and through distribution in any other manner the Commission may deem necessary. Such announcements shall state a time and place, the qualifications required of applicants, and all pertinent facts relating to the positions to be filled.

(4) The Commission shall establish a uniform system of grading all examinations given under this section and shall, as soon as practicable after the giving of such examinations, grade the applicants and certify to the director an eligible list of all applicants so examined who

have made passing grades. The one passing the examination with the highest average grade shall be listed first and all others shall be listed numerically according to the results of the examination.

Section 18. (1) All appoints of the Commission shall be made by the executive director from among the three highest names on the eligible list provided for in Section 17.

(2) No appointment shall be made to any position in the Commission except from the eligible list provided for in subsection (4) of Section 17.

(3) Whenever the executive director shall determine that an emergency exists, he may make emergency appointments. Such emergency appointments need not come from the eligible list; provided, however, in no case shall an emergency period exceed ninety days.

Sction 19. (1) For violation of orders or failure to perform duties, the executive director may suspend any employee for a period not to exceed two months or may impose a fine of not more than two months pay, or impose both fine and suspension. Any employee may also be demoted for violation of orders or failure to perform duties.

(2) When any employee of the Kentucky Commission for Child Welfare is dismissed for any reason he may have a hearing on his case before the Commission by filing a request in writing with the executive director within ten days after his dismissal. When the Commission is required to hold a hearing on any case where witnesses are required to give evidence, it shall have the power to issue subpoenas for such and any witnesses.

(3) Nothing in this act is intended to prevent the Commission from decreasing the number of employees, when in the opinion of the executive director and the Commission it is necessary to the efficient operation of the department. When the number of employees is so decreased, the youngest in point of service in each particular job classification shall be the first to be released and shall be placed at the head of the eligible list in the order of their seniority.

Section 20. Personnel who enjoy merit system status in the Department of Economic Security and who are transferred to the Kentucky Commission for Child Welfare by this act shall be accorded civil service status by the Commission, but not with respect to a particular position. The executive director of the Commission shall be responsible for prescribing qualifications requisite for holding each position under Commission jurisdiction, and he shall determine to which positions employees with merit system status transferred from the Department of Economic Security shall be assigned on the basis of their individual qualifications. Personnel transferred to the Kentucky Commission for Child Welfare who do not have merit system status in the Department of Economic Security or who are merely provisional or probationary employees in that department, and all persons transferred from the Department of Welfare shall be accorded civil service status in the Kentucky Commission for Child Welfare only after the executive director of the Commission shall certify first that their individual qualifications are commensurate with those he has prescribed as requisite for the positions for which they desire to be considered as applicants and they have passed the civil service examination provided for in Section 17. Those employees not accorded civil service status shall be dismissed by the Kentucky Commission for Child Welfare as soon as qualified replacements can be obtained under civil service procedures.

Section 21. Section 195.030 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

(1) The department shall be divided into the following administrative bureaus and divisions:

(a) A Bureau of Employment Security which shall be divided into:

1. A Division of Unemployment Insurance; and
2. A Division of Employment Service.

(b) A Bureau of Public Assistance.

Section 22. Section 195.050 of the Kentucky Revised Statutes is hereby amended and reenacted to read as follows:

(1) The Bureau of Public Assistance shall be headed by an executive director. The executive director, with the prior approval of the commissioner, is authorized to integrate and combine the functions and duties of the divisions within the bureau insofar as he considers such integration and combination economical and practical for the proper and efficient administration of the bureau.

Section 23. Section 196.030 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

(1) The department shall be divided into:

(a) A Division of Corrections, headed by a director who is thoroughly trained and experienced in penology and prison management;

(b) A Division of Probation and Parole, headed by a director who is thoroughly trained and experienced in probation and parole work.

(2) The divisions shall be under the direction of the Commissioner of Welfare.

Section 24. Section 199.011 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

As used in KRS Chapter 199, unless the context otherwise requires:

(1) "Director" means the executive director employed by the Kentucky Commission for Child Welfare;

(2) "Commission" means the Kentucky Commission for Child Welfare;

(3) "Child" means any person who has not reached his eighteenth birthday.

(4) "Neglected or dependent child" means any child who is under such improper parental care and control or guardianship as to injure or endanger the morals, health or welfare of himself or others.

(5) "Abandoned child" means any child who by reason of the desertion of his parents or guardian is in destitute circumstances.

(6) "Child-caring institution or agency" means any agency or institution, other than a state institution or one operated primarily for educational or medical purposes, in which four or more children, not related by blood, adoption or marriage to the person maintaining the institution, are cared for and maintained in residence for compensation or otherwise.

(7) "Child-placing institution or agency" means any agency or institution other than a state agency which arranges for the placement of children in child-caring homes or child-caring institutions, or which arranges for the placement of children for adoption.

(8) "Child welfare worker" means any employee of the Commission, or social worker employed by a county or city, who has been approved by the Commission to handle, under its supervision, services to children.

Section 25. Section 200.010 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

(1) As used in KRS Chapter 200, unless the context requires otherwise, "Commission" means the Kentucky Commission for Child Welfare.

(2) As used in KRS 200.080 to 200.240, unless the context requires otherwise, "Mother" includes any female person standing in loco parentis to any child under fourteen years of age.

(3) As used in KRS 200.250 to 200.300, unless the context requires otherwise, "crippled children" includes all physically handicapped children under the age of twenty-one except those whose only infirmity is blindness or deafness.

Section 26. Section 208.020 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

(1) Except as otherwise provided in this act, the county court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county:

(a) Who is neglected as to proper or necessary support or education as required by law or as to medical, scientific, psychological or other care necessary for his well being, or who is abandoned or cruelly treated by his parents or other custodian, or who is dependent;

(b) Whose occupation, behavior, conditions, environment, or association are such as to injure his welfare or that of others;

(c) Who is beyond the control of his parents or other custodian;

(d) Who is alleged to have violated or attempted to violate any federal or state law or municipal ordinance.

(2) Any person who is alleged to have violated or attempted to violate any federal or state law, or municipal ordinance, prior to having reached his eighteenth birthday shall, if proceedings concerning him are instituted prior to his twentieth birthday, be dealt with as provided in this act for a child.

(3) Nothing in this act shall deprive other courts of the right to determine the custody of children upon writs of habeas corpus or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such courts; nor shall anything in this act affect the jurisdiction of circuit courts over adoptions and over proceedings for termination of parental rights.

Section 27. Section 208.140 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

(1) Before making disposition of the case of a child brought before the juvenile court, whether by petition pursuant to KRS 208.070 or by reason of having been taken into custody pursuant to KRS 208.110, the judge shall cause an investigation to be made, concerning the nature of the specific act complained of, and any circumstances surrounding the child which throw light on the future care and guidance which should be given the child. The investigation shall include an inquiry into the child's age, habits, school record, general reputation and everything that may pertain to his life and character. The investigation shall also include an inquiry into the home conditions, life and character of the person having custody of the child. The result of the investigation shall be reported in writing to the judge previous to the final hearing of the child's case, and shall become a part of the record of the proceedings.

(2) The investigation shall be conducted by volunteer or salaried probation officers of the juvenile court or by a suitable public or private agency. The Kentucky Commission for Child Welfare may furnish investigation services under agreements with the individual juvenile courts. For this purpose, any county judge may enter into a contract on behalf of his county with the Kentucky Commission for Child Welfare for the furnishing of such services.

Section 28. Section 208.200 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

(1) If in its decree the juvenile court finds that the child has committed a public offense, the court may, by order:

(a) Place the child on probation or under supervision in his own home or in a suitable family home or boarding home, upon such conditions as the court shall determine. Probation shall not be ordered or administered as a punishment, but as a measure for the protection, guidance and well-being of the child and his family. A child so placed on probation shall be subject to the visitation and supervision of a probation officer or a child welfare worker. Probation methods shall be directed to the discovery and correction of the basic causes of maladjustment and to the development of the child's personality and character, with the aid of the social resources of the community. A child so placed on probation shall remain subject to the jurisdiction of the juvenile court until he becomes twenty-one years of age, unless he is discharged prior thereto by the court.

(b) Commit the child to the custody or guardianship of a private or public institution or agency authorized to care for such children, or under the guardianship of a suitable person. Such commitment shall be until the age of twenty-one subject to the power of the court to discharge the child prior thereto. In committing a child to a private institution or agency the court shall select one approved by the Kentucky Commission for Child Welfare and children committed to such institution or agency shall be subject to the visitation and supervision of a probation officer or child welfare worker.

(c) Commit the child to the Kentucky Commission for Child Welfare.

(d) Impose the penalty provided by law.

(2) Nothing herein contained shall operate to deprive the court of the power of new proceedings and recommitment of any child found to have committed another public offense while in the custody of the Commission or on parole, under supervision of a probation officer or child welfare worker, from his original commitment or to limit the jurisdiction of any other court in assuming jurisdiction of wards of the State between the ages of eighteen and twenty-one years who have committed another public offense after attaining the age of eighteen.

(3) If a child is disposed of as provided in paragraph (a), (b), or (c) of subsection (1) of this section, the court may modify or set aside its order at any time, and direct that the child be otherwise disposed of in accordance with KRS 208.010 to 208.590.

(4) No adjudication by a juvenile court of the status of any child shall be deemed a conviction nor shall adjudications, except those made under subsection (1) (d) of this section, operate to impose any of the civil disabilities ordinarily resulting from a criminal conviction, nor shall any child be found guilty or be deemed a criminal by reason of such adjudication.

Section 29. Section 208.220 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

The Kentucky Commission for Child Welfare shall assist juvenile courts in the placing of children in family homes or boarding homes and, under agreements with the individual juvenile courts, may assume responsibility for making such placements. Counties may pay or contribute toward the expense of maintaining children in family homes, or boarding homes, and to the extent authorized by the fiscal court the Kentucky Commission for Child Welfare may incur obligations chargeable to the county for such expenses.

Section 30. If it appears that the family of any child who has been placed on probation in a family or boarding home, or has been committed to the Commission or to an institution or agency, is able to contribute to the support of the child, the court shall enter an order requiring the parent to pay a reasonable sum from time to time for the support, maintenance or education of the child. The order shall direct that the money be paid to the county clerk to be disbursed as ordered by the court or to be paid to the person, institution, agency or the Commission to which the child was committed or probated. On application and on such notice as the court may direct, the court may make alterations in the requirement for contribution. The court may require the parent to give security for payment of the sums due, and shall enforce its orders as in cases of contempt. The enforcement of a sentence imposed upon a parent who fails to comply with the order of the court may be suspended at the discretion of the court, but the suspension shall be revoked upon failure of the parent to obey the orders of the court.

Section 31. Section 208.320 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

(1) In counties containing a city of the first or second class, the county judge may appoint a chief probation officer of the juvenile court and such number of assistant probation officers, professional and clerical personnel as may be authorized by the juvenile court. Such officers shall receive reasonable salaries to be fixed by the fiscal court and shall be allowed their actual and necessary expenses incurred in the performance of their duties. The salaries and expenses shall be paid out of the county treasury. The officers shall serve at the pleasure of the county judge. The officers shall have the powers of a sheriff in making arrests and carrying out the purposes of this act. A probation officer or any peace officer may take into custody any child that he has reasonable grounds to believe is in violation of conditions of his or her probation, and detain such child for appropriate action by the court.

(2) In any county the county judge may appoint or designate one or more discreet persons of good moral character to serve as volunteer probation officers of the juvenile court. Such officers shall serve during the pleasure of the judge and without compensation, except that the fiscal court may authorize the payment of compensation out of the county treasury to any such officers. Field workers of the Kentucky Commission for Child Welfare may be appointed or designated as such volunteer probation officers, but without compensation from county funds.

Section 32. Section 208.330 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

Probation officers of the juvenile court shall:

(1) Make investigations as provided in KRS 208.140.

(2) Be present in court when the cases investigated by them are heard; furnish such information as may be required; advise with the court as to the proper disposition of the case; and take such charge of the child before and after the hearing as may be ordered.

(3) Visit and supervise children placed on probation, and as far as practicable, aid and encourage such children, by friendly advice and admonition to keep the terms of their probation and provide for their rehabilitation.

(4) Make such reports and records as may be required by the court.

(5) Supervise the transfer of children to and from homes or institutions, as directed by the court.

(6) Work in cooperation with the representatives of the Kentucky Commission for Child Welfare.

Section 33. Section 208.400 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

The Kentucky Commission for Child Welfare shall be responsible for the operation, management and development of the existing state institutional facilities for the custodial care or reformation of children, including specifically the institutions now known as the Reception Center, Kentucky Village or Houses of Reform, the Kentucky Children's Home, and forestry camps at Pineville and Gilbertsville, but not including educational institutions or institutions designed primarily for the care or treatment of mentally or physically handicapped children. The Kentucky Commission for Child Welfare shall further be responsible for the development of such additional institutional facilities and other specialized facilities such as forestry camps, farms, vocational training facilities, or facilities for treatment of emotionally disturbed children as are necessary to provide an adequate and modern program for the care, treatment and rehabilitation of children committed to the care and supervision of the Kentucky Commission for Child Welfare. The Kentucky Commission for Child Welfare may select appropriate names by which the various institutions and facilities under its control shall be known.

Section 34. Section 208.410 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

The Kentucky Commission for Child Welfare shall arrange for a program of care, treatment and rehabilitation of the children committed to the Commission, which program shall be designed to provide for classification, segregation, and specialized treatment of children according to their respective problems, needs, and characteristics, and to provide a coordinated system of probation and parole services.

Section 35. Section 208.420 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

The Kentucky Commission for Child Welfare shall establish and operate one or more reception centers for the observation, study, and classification of children following their commitment to the Commission. Children committed by reason of the commission of a public offense, and such other children committed to the Commission as the Commission believes will benefit therefrom, shall upon their commitment be placed in a reception center for a period of observation and study. Reception centers shall be provided with adequate psychiatric, psychological, social, medical and educational services. A case history for each child shall be prepared during his period of observation and study in a reception center, the professional staff of the reception center shall make a recommendation as to the character of treatment or disposition which should initially be provided for the child and the Commission shall attempt to carry out this recommendation to the fullest degree possible.

Section 36. Section 208.430 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

(1) Any child committed to the Kentucky Commission for Child Welfare may, by the Commission, at any time during his commitment, be:

(a) Discharged from commitment, unless he was committed by a circuit court upon a felony conviction and was given a sentence, the period of which shall extend beyond the age of twenty-one;

(b) Placed on parole in the home of his parents, or in a suitable foster home, family home or boarding home, upon such conditions as the Kentucky Commission for Child Welfare may prescribe and subject to visitation and supervision by a probation officer or child welfare worker of the Commission.

(c) Placed in one of the institutions operated by the Kentucky Commission for Child Welfare.

(d) Placed in a child-caring institution operated by a local government unit or by a private agency willing to receive the child, upon such conditions as the Kentucky Commission for Child Welfare may prescribe.

(e) Disposed of as provided in KRS 208.460 or 208.470.

(2) Unless the child has been discharged from commitment, any disposition of a child made under this section may at any time during the period of his commitment be changed and other disposition made in accordance with the provisions of this section.

Section 37. Section 208.480 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

Any child committed to the Department of Welfare or the Department of Economic Security prior to the operative date of this act shall be deemed to have been committed to the Kentucky Commission for

Child Welfare, and until such child committed formerly to the Department of Welfare reaches the age of twenty-one, he may be handled by the Kentucky Commission for Child Welfare as is provided in this act.

Section 38. Section 208.510 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

The Division of Probation and Parole of the Department of Welfare shall have no responsibility or authority with respect to children placed on parole by the Kentucky Commission for Child Welfare and shall transfer supervision and records of any children assigned to it by oversight prior to the operative date of this act to the Kentucky Commission for Child Welfare.

Section 39. The following functions are hereby transferred to and exercised by the Kentucky Commission for Child Welfare:

All the functions of the Department of Economic Security provided for in Sections 199.350, 199.370, 199.150, and 199.570 of the Kentucky Revised Statutes relating to the adoption of children and other state services to dependent, abandoned or neglected children.

Section 40. Section 199.510 of the Kentucky Revised Statutes is amended and reenacted to read as follows:

(1) Upon filing a petition for the adoption of a minor child, the clerk of the court shall forward two copies of the petition to the Commission. The Commission, or any person, agency or institution designated by it or the court shall, to the extent of available facilities, investigate and report in writing to the court;

(a) Whether the contents of the petition required by KRS 199.490 are true;

(b) Whether the proposed adoptive parents are financially able, morally fit, and suitable to have the care, custody and training of the child, the sex, race, physical and mental condition of the child, the reasons for which the natural parents have released the child, the way in which the child is adjusting to the adoptive home; and

(c) Whether the adoption is to the best interest of the child and the child is suitable for adoption.

(2) The report of the Commissioner or the designated person, agency or institution shall be filed with the court as soon as practicable but not later than ninety days after the filing date of the petition unless for good cause the court by written order extends the period of time for filing the report. If the Commission or the designated person, agency or institution is unable to make the report, it shall within ten days of receipt of the petition notify the court of its inability to conduct the investigation, and the court may designate some other person, agency or institution to make the necessary investigation. If the court designates some other person, agency or institution, the clerk shall forward one copy of the petition to such person, agency or in-

stitution and shall notify the Commission of such other designation at the time he forwards the petition to the Commission.

(3) If the Commission is a party defendant, its report, if it files no other pleadings, shall be considered its answer to the petition.

(4) The clerk's fee for copying and forwarding the copies of the petitions required by this section shall be taxed as a cost of the action.

Section 41. The following functions are hereby transferred to and shall be exercised by the Kentucky Commission for Child Welfare:

All the functions of the Department of Economic Security provided for in KRS 200.110, 200.120, 200.130, 200.140, 200.150, 200.160, and 200.220 relating to mothers' aid and assistance to children, and KRS 199.410, 199.550, 199.640, 199.670, 200.080, and 200.100 relating to such powers of the Department of Welfare with regard to child welfare.

Section 42. The following functions are hereby transferred to and shall be exercised by the Kentucky Commission for Child Welfare:

All the functions of the Department of Welfare provided in KRS 208.130, 208.140, 208.170, 208.180, 208.200, 208.220, 208.270, 208.280, 208.300, 208.320, 208.330, 208.340, 208.400, 208.410, 208.420, 208.430, 208.440, 208.450, 208.460, 208.470, 208.510, 208.520, 208.530, and 208.540 relating to juvenile courts, commitment and care of children. The excepted functions shall continue to be performed by the Department of Welfare.

Section 43. Sections 199.450, 208.480, 208.490, and 208.550 of the Kentucky Revised Statutes are hereby repealed.

Section 44. This act shall take effect July 1, 1958.

**SB 101:** AN ACT relating to narcotic drugs.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 218.090 of the Kentucky Revised Statutes is amended to read as follows:

(1) Every physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs, shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription. It shall, however, be deemed a sufficient compliance with this subsection if any such person using small quantities of solutions or other preparations of such drugs for local application, shall keep a record of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients.

(2) Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of Subsection (5) of this section.

(3) Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of Subsection (5) of this section.

(4) Every person who purchases for resale, or who sells narcotic drug preparations exempted by Section 218.080 of the Kentucky Revised Statutes, shall keep a record showing the quantities and kinds thereof received and sold, or disposed of otherwise, in accordance with the provisions of Subsection (5) of this section.

(5) The form of records shall be prescribed by the State Board of Health. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced and the proportion of resin contained in or producible from the plant Cannabis Sativa L. The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the Federal Narcotic Laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft. A copy of the detailed list of narcotic drugs lost, destroyed, or stolen shall be forwarded to the State Department of of Health as soon as practical.

Section 2. Section 218.150 of the Kentucky Revised Statutes is amended to read as follows:

(1) On the conviction of any person of the violation of any provision of this Act or Chapter 218 of the Kentucky Revised Statutes, a copy of the judgment and sentence, and of the opinion of the court or magistrate, if any opinion be filed, shall be sent by the clerk of the court, or by the magistrate, to the board or officer, if any, by whom the convicted defendant has been licensed or registered to practice

his profession or to carry on his business. On the conviction of any such person the court may, in its discretion, suspend or revoke the license or registration of the convicted defendant to practice his profession or to carry on his business. On the application of any person whose license or registration has been suspended or revoked, and upon proper showing and for good cause, said board or officer may reinstate such license or registration.

(2) Except as otherwise provided in Subsection (1) of this section, on the conviction of any person of a violation of any provision of this Act or Chapter 218 of the Kentucky Revised Statutes, a copy of the judgment and sentence and of the opinion of the court or magistrate, if any opinion be filed, shall be sent by the clerk of the court or by the magistrate to the State Department of Health.

Section 3. Section 218.160 of the Kentucky Revised Statutes is amended to read as follows:

(1) Prescriptions, orders, and records, required by this Act or Chapter 218 of the Kentucky Revised Statutes, and stocks of narcotic drugs, shall be open for inspection only to federal, state, county, and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, order or records relate is a party.

(2) No apothecary or other custodian of prescriptions, orders, or records required by this Act or Chapter 218 of the Kentucky Revised Statutes, or of stocks of narcotic drugs, shall refuse to permit the inspection thereof by any federal, state, county or municipal officer whose duty it is to enforce the laws of this state or of the United States relating to narcotic drugs.

Section 4. Section 218.190 of the Kentucky Revised Statutes is amended to read as follows:

(1) It is hereby made the duty of the State Board of Health and the State Department of Health, its officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all city, county, and Commonwealth attorneys, and the Attorney General, within their respective jurisdictions, to enforce all provisions of this Act or Chapter 218 of the Kentucky Revised Statutes and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to narcotic drugs.

(2) For the purpose of enforcing the provisions of this Act or Chapter 218 of the Kentucky Revised Statutes, the investigators, inspectors, representatives, and agents of the State Board of Health and the State Department of Health shall have the full power and

authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, to require the production of prescriptions, of books, papers, documents or other evidence, to employ special investigators, and to expend funds for the purpose of obtaining evidence. Investigators, inspectors, representatives and agents of the State Department of Health are empowered to remove from the files of any apothecary or other custodian any narcotic prescription upon tendering a receipt therefor.

(3) It shall be the duty of the State Department of Health to make or cause to be made examinations of samples secured under the provision of this Act or Chapter 218 of the Kentucky Revised Statutes to determine whether or not any provision thereof has been violated.

Section 5. A new section of the Kentucky Revised Statutes is created to read as follows:

Notwithstanding the existence or pursuit of any other remedy (civil or criminal) the State Board of Health or the State Department of Health may maintain, in its own name, an action to restrain or enjoin any violation of this Act or Chapter 218 of the Kentucky Revised Statutes.

Section 6. A new section of the Kentucky Revised Statutes is created to read as follows:

(1) The following property found and seized within the Commonwealth of Kentucky is hereby declared to be contraband: Any vehicle, watercraft, or aircraft in which any person is illegally possessing or transporting narcotic drugs. "Illegally possessing" means and includes the holding of any narcotic drugs unless lawfully acquired and intended for lawful uses.

(2) Any officer, agent, inspector, or representative of the State Department of Health and any peace officer within this state may, upon probable cause, without warrant seize contraband as herein defined in Subsection (1) of this section, and hold it subject to the order of the court before the owner or one in possession of the contraband has been charged with violation of this Act or Chapter 218 of the Kentucky Revised Statutes. Upon conviction of the defendant, the court shall enter an order vesting title to all the contraband property in the State Department of Health. The State Department of Health may retain and use such property in the enforcement of this Act or Chapter 218 of the Kentucky Revised Statutes or dispose of such property as hereinafter provided.

(3) (a) Contraband property included in Subsection (1) of this section shall be subject to the right of any owner or lienor whose lien is valid and of record, to intervene and establish his rights in the

property by proving that the property was being used in connection with traffic in narcotic drugs without the knowledge, consent or approval of the owner or lienor. If the owner of the property does so approve, the court shall order the property restored to him. If the lienor so proves, the court shall order the sale of the property at public auction, unless an agreement is made between the lienor and the State Department of Health which shall not become final until it has been approved by the court. The State Department of Health may deliver any property found to be contraband to a lienor whose claim has been established by order of a court of competent jurisdiction, upon payment to the State Department of Health of the difference of the fair market value of the property so seized and the claim of the lienor.

(b) Where an agreement has been made between the lienor and the State Department of Health and approved by the court, a public auction shall not be required. If an agreement is not entered into between the State Department of Health and the lienor or approved by the court, and a public auction is required to be held, the public auction shall be conducted by the sheriff of the county in which the property is seized. The sheriff shall receive and be allowed the same fees as allowed for sales under execution.

(c) The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide, shall be paid out of the proceeds of the sales whether they are private or public. The balance shall be deposited in the State Treasury in a revolving fund for the use of the State Department of Health in carrying out the provisions of Chapter 218 of the Kentucky Revised Statutes.

(d) If the defendant is acquitted, no property seized as contraband in connection with the arrest of the defendant shall be ordered returned or restored unless the person from whose possession the property was taken proves that he was in lawful possession of the property, and if no other person appears and proves that he owns the property or has a valid recorded lien on the property and that the property was being used without his knowledge and consent, title shall vest in the State Department of Health at the end of ninety days.

(e) If the owners or lienholders of any contraband seized by any officer, agent, or representative of the State Department of Health, or any peace officer of this state, cannot be located within ninety days, and during that time fail to appear and claim the contraband, or if the owner or lienholder appears and agrees, title to the contraband shall immediately vest in the State Department of Health, in which event it may sell the contraband at a private sale or retain and use the vehicle for the enforcement of this Act or Chapter 218 of the Kentucky Revised Statutes.

Section 7. A new section of the Kentucky Revised Statutes is created to read as follows:

No person shall bring into, or cause to be brought into, or possess, use, or sell, upon the premises of any penal institution within the Commonwealth of Kentucky, any narcotic drug in violation of this Act or Chapter 218 of the Kentucky Revised Statutes.

Section 8. Section 218.210 of the Kentucky Revised Statutes is amended to read as follows:

(1) Any person who sells, supplies, prescribes, administers, dispenses or furnishes, or causes to be sold, supplied, prescribed, administered, dispensed or furnished, any narcotic drug in violation of this Act or Chapter 218 of the Kentucky Revised Statutes to a person under twenty-one years of age, shall be guilty of a felony and shall be fined not more than twenty thousand dollars and confined in the penitentiary for not less than twenty years, and may be so confined for a longer period or for life.

(2) (a) Any person in possession of any narcotic drug in violation of any provision of this Act or Chapter 218 of the Kentucky Revised Statutes, except Section 218.250 of the Kentucky Revised Statutes, shall be guilty of a felony and shall, for the first offense be punished by confinement in the penitentiary for not less than two years nor more than ten years and by a fine of not more than twenty thousand dollars, and for each subsequent offense be punished by confinement in the penitentiary for not less than five years nor more than twenty years and by a fine of not more than twenty thousand dollars.

(b) Any person who violates any provision of this Act or Chapter 218 of the Kentucky Revised Statutes, for which a specific penalty is not otherwise provided, except Section 218.250 of the Kentucky Revised Statutes, shall be guilty of a felony and shall, for the first offense, be punished by confinement in the penitentiary for not less than five years nor more than twenty years and by a fine of not more than twenty thousand dollars, and, for each subsequent offense be punished by confinement in the penitentiary for not less than ten years nor more than forty years, and by a fine of not more than twenty thousand dollars.

(3) No court or judge thereof shall postpone or suspend judgment or sentence or probate a defendant when the defendant has pleaded guilty to or been convicted of selling, supplying, prescribing, administering, dispensing or furnishing, or causing to be sold, supplied, prescribed, administered, dispensed or furnished, any narcotic drug in violation of this Act or Chapter 218 of the Kentucky Revised Statutes to a person under twenty-one years of age, or when the defendant has previously pleaded guilty to or been convicted of a violation of any of the other provisions of this Act or Chapter 218 of the Kentucky Revised Statutes, except Section 218.250 of the

Kentucky Revised Statutes, or has previously pleaded guilty to or been convicted of a violation of any of the narcotic laws of the United States of America or any state or territory thereof.

(4) Whenever a person charged with a violation of Subsection (1) of Section 218.250 of the Kentucky Revised Statutes waives a jury, the court or judge thereof may, upon the defendant pleading or being found guilty, sentence the defendant to imprisonment for twelve months without the intervention of a jury. Notwithstanding the provisions of Subsection (2) of Section 218.250 of the Kentucky Revised Statutes, no court or judge thereof shall postpone or suspend judgment or sentence or probate a defendant when the defendant has pleaded guilty to or been convicted of a violation of Section 218.250 of the Kentucky Revised Statutes, unless the defendant consents to enter, and forthwith enters an institution approved by the court for the treatment of narcotic addicts and remains therein until discharged by said institution; failure of the defendant to do so shall automatically revoke his probation and require the prompt entry of judgment and service of sentence in the county jail.

(5) Any person who violates Subsection (2) of Section 218.160 of the Kentucky Revised Statutes as amended herein, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, and for each subsequent offense shall be punished by imprisonment in the county jail for ninety days and by a fine of not less than five hundred dollars.

Section 9. Section 218.250 of the Kentucky Revised Statutes is amended to read as follows:

(1) Any person who habitually uses narcotic drugs as defined in Section 218.010 of the Kentucky Revised Statutes shall be imprisoned in the workhouse or county jail for twelve months.

(2) In the event a conviction is had under Subsection (1) of this section in a county, quarterly, justice's or police court, such court shall have the same authority to postpone the entering of judgment and the sentencing of the defendant, and to place the defendant on probation, as the circuit courts have, and the probation officers shall perform the same functions with respect to probations made under this section as they do in the case of probations made by the circuit court.

(3) Any peace officer who apprehends a person under the influence of a narcotic drug, or who hears a person state that he is addicted to the use of narcotics, shall immediately arrest such person and take him before the proper court to be dealt with according to law.

**SB 176:** AN ACT relating to post-mortem examinations.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. No person shall perform an autopsy or post-mortum examination upon the body of a deceased person except in accordance with this Act.

Section 2. Section 72.070 of the Kentucky Revised Statutes is amended to read as follows:

(1) If in the opinion of the coroner it is necessary to have a post-mortem examination of a dead person during an inquest, he may employ a competent surgeon or physician for that purpose, and if he suspects poisoning he may employ a competent chemist to analyze the body or any part thereof.

(2) Upon agreement of the coroner, an autopsy or post-mortem examination may be performed upon the body of a deceased person by a licensed physician or surgeon, whenever written consent thereto, duly signed and acknowledged prior to his death, has been granted by the deceased. In the absence of such consent, written or telegraphic consent for such examination shall be deemed sufficient when given by the person who assumes the duty of legal disposal of the body. If two or more persons assume custody of the body, the consent of one of them shall be deemed sufficient.

(3) No physician, surgeon or chemist shall be required to inquire into a coroner's authority to order an autopsy to be performed. Any licensed physician, surgeon or chemist who performs an autopsy or post-mortem examination upon request of the coroner or with the consent of any one of the persons enumerated in subsection (2) shall not be liable in damages or otherwise accountable in any person therefor.

Section 3. Section 72.090 of the Kentucky Revised Statutes is amended to read as follows:

(1) A surgeon, physician or chemist employed under KRS 72.070 (1) or 72.080 shall receive a reasonable fee fixed by the fiscal court.

(2) The officer directing the investigation under KRS 72.080 shall receive per diem, as compensation for his services, the maximum fee prescribed by law for services required of and rendered by him by virtue of the office he holds.

(3) The fees prescribed in subsections (1) and (2) of this Section shall be paid out of the county treasury. The other costs of an inquest are payable out of the county treasury except where an inquest on an unburied body is held in a city of thirty thousand or more inhabitants, in which case the other costs of the inquest shall be paid by the city. Provided, however, that if there are insufficient funds available in the county treasury for the purpose of employing the physician, surgeon or chemist authorized to be employed by KRS 72.070 and 72.080, the Commissioner of Health may, upon request of the coroner, pay for such post-mortem examination, out of funds of the Department of Health which are not otherwise appropriated, a sum not to exceed one hundred dollars for each examination.

Section 4. Any person who violates Section 1 or Section 2 of this Act shall be fined not less than ten dollars nor more than five hundred dollars or confined in the county jail for not less than ten days nor more than thirty days, or both.

**SB 97:** AN ACT relating to hospitals, nursing homes and homes for the invalid and aged.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. This Act may be cited as the "Hospital and Nursing Home Act."

Section 2. As used in this Act unless the context requires otherwise:

(1) "Board" means the State Board of Health;

(2) "Department" means the State Department of Health;

(3) "Person" means any individual, partnership, corporation, firm or association;

(4) "Hospital" means a place devoted primarily to the maintenance and operation of facilities for the diagnosis treatment or care of five or more persons, not related to the operator, for more than twenty-four hours, who suffer from acute illness, injury, disease or deformity and includes general acute hospitals, maternity hospitals, mental hospitals, tuberculosis hospitals, orthopedic hospitals, chronic disease hospitals and other specialized hospitals;

(5) "Nursing home" means a place devoted primarily to the maintenance and operation of facilities for the treatment and care of three or more persons, not related to the operator, for more than twenty-four hours, who suffers from chronic illness, disease or deformity, or from an illness or injury not requiring the intensive care normally provided in a hospital but who do require care in excess of room, board and laundry and who need skilled nursing care.

(6) "Skilled nursing care" means nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge and skills beyond that which the untrained person possesses;

(7) "Home for the invalid and aged" means a building devoted primarily to the maintenance and operation of facilities for the care of three or more persons, not related to the operator, for more than twenty-four hours, who are aged or invalid, who do not require the intensive care normally provided in a hospital or nursing home but who do require care in excess of room, board and laundry. The existence of any building occupied by three or more persons, not related to the operator, who are either infirm due to old age or who are physically or mentally handicapped, or who for other reasons should receive care ordinarily not given a normal person, shall consti-

tute a prima facie case that the building constitutes a home for the invalid and aged; and

(8) "Proprietor" means the owner, lessee, manager, agent, or the person in charge of any hospital, nursing home or convalescent home.

Section 3. (1) No person shall operate a hospital, nursing home or home for the invalid and aged without having first obtained a license as provided for in this Act. An application for a license to operate any such establishment shall be made to the board upon forms provided by it and shall contain such information as the board reasonably requires.

(2) Each application for a license to operate a hospital, nursing home or home for the invalid and aged shall be accompanied by a fee of ten dollars and a statement of safety approval by the State Fire Marshal.

(3) The term "hospital", "nursing home" or "home for the invalid and aged" shall not be used as part of the name of any establishment, unless so classified by the State Board of Health.

Section 4. (1) Upon receipt of an application for a license to operate a hospital, nursing home or home for the invalid and aged, accompanied by the license fee and a statement of safety approval by the State Fire Marshal, the board shall issue a license if such establishment meets the requirements of this Act and the rules and regulations of the board.

(2) Each license to operate, unless suspended or revoked, shall expire on June 30 following its date of issuance and be renewable annually thereafter upon application accompanied by a renewal fee of five dollars, and a statement of safety approval by the State Fire Marshal.

(3) Each license to operate shall be issued only for the premises and persons named in the application, and shall not be transferable.

(4) Licenses shall be posted in a conspicuous place at the establishment.

(5) Hospitals, nursing homes or homes for the invalid and aged operated by state, county, or municipal bodies shall be exempt from the payment of fees for licensure but shall comply with all other requirements of this Act.

(6) Hospitals, nursing homes or homes for the invalid and aged operated by the federal government are exempt from the provisions of this Act.

Section 5. Every hospital, nursing home or home for the invalid and aged shall be:

(1) Of adequate size;

(2) Constructed of such materials that floors, walls and ceilings are easily cleanable;

(3) Served by a good road which is passable at all times of the year; and

(4) Operated and maintained in accordance with the state plumbing code.

Section 6. Nothing in this Act or in the rules and regulations adopted pursuant thereto, shall be construed as applying to the practice of:

(1) Medicine;
(2) Osteopathy;
(3) Chiropratic;
(4) Healing by prayer in accordance with the creed or tenents of any recognized church or religious denomination;
(5) Any other practice or system of the healing arts which is recognized or permitted by the laws of the Commonwealth of Kentucky.

Section 7. The board shall promulgate rules and regulations for the proper administration and enforcement of this Act, with respect to construction, equipment, sanitation and sewage of establishments covered by this Act, records and reports, duties of proprietors, employes and other persons and any other matter concerning health and involving any establishment covered by this Act.

Section 8. The board shall, through its authorized agents, in the administration of this Act, have full and free access to the required records, grounds and buildings of the following:

(1) Facilities currently licensed;
(2) Facilities which have applied for a license;
(3) Facilities where there are reasonable grounds for believing that they may be subject to the provisions of this Act.

Section 9. No person shall construct, install or extensively alter a hospital, nursing home or home for the invalid and aged, without having first obtained the approval of the department, in writing, of the plans and specifications. Detailed plans and specifications of the proposed facility showing the plumbing system, sewage disposal system, water supply system, use and location of rooms, materials of construction, location of equipment, lighting, heating, and ventilation, shall be submitted to the department prior to the construction or alteration of the facility. In the event a public sewer is not available, the plan shall include the proposed type of sewage disposal system. All plans and specifications shall be submitted to the department in accordance with the rules and regulations of the board. The construction, installation or alteration shall be done in accordance with the approved plans and specifications.

Section. 10 (1) There is hereby created a Hospital and Nursing Home Council to be composed of twelve members. The Commissioner of Health shall be an ex-officio member and shall serve as chairman of the council. The other eleven members shall be appointed by the Governor for terms of four years and until their successors are appointed and qualify, except that the members appointed to fill the first vacancy occurring for a term beginning on July 1, 1958, shall be as follows: Three members shall be appointed for one year, three for two years, three for three years, and two for four years, and the respective terms of the first members shall be designated by the Governor at the time of their appointment. Upon the expiration of the respective terms of the members first appointed, the term of each successor shall be four years or until his successor shall be appointed and qualify. Four appointive members of the council shall be physicians licensed to practice medicine in Kentucky and shall be appointed from a list of three names for each position submitted by the Kentucky State Medical Association. Five appointive members of the council shall be hospital administrators and shall be appointed from a list of three names for each position submitted by the Kentucky State Hospital Association. Two appointive members of the council shall be nursing home administrators and shall be appointed from a list of three names for each position submitted by the Kentucky Association of Nursing Homes.

(2) The Hospital and Nursing Home Council shall meet at least once each year and at any time upon the call of the chairman. Members of the Hospital and Nursing Home Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses incurred in the performance of their duties.

(3) It shall be the duty of the Hospital and Nursing Home Council:

(a) To act in an advisory capacity to the board;

(b) To advise the board in the administration and enforcement of this Act; and

(c) To make available to the board data and material in its possession together with its views, suggestions and recommendations.

Section 11. (1) The board may suspend or revoke the license of any hospital, nursing home or home for the invalid and aged for violation of any provision of this Act or of any rule or regulation of the board.

(2) In every proceeding for suspension or revocation of a license, the board shall furnish the holder of the license with written notice setting out the substance of each offense charged, with sufficient detail to reasonably apprise such person of the nature, time and place thereof. No hearing shall be conducted until at least thirty days written notice thereof has been given to the holder of the license.

(3) Service of notice may be made in the manner prescribed

by law for the service of civil processes, by delivery of same by any employe of the department, or by forwarding same to the holder of the license by United States registered mail at the address of the holder as it appears in the records of the board.

(4) Hearings may be conducted by a hearing officer or by a hearing committee appointed by the board. Any person appointed by the board as a hearing officer or as a member of a hearing committee may administer oaths, issue subpoenas for attendance of witnesses and for the production of books, papers and documents, and cite for contempt, before the circuit or quarterly court in the county in which the hearing is held.

(5) The licensee shall be known as the "respondent" and shall be entitled to be represented at the hearing in person or by counsel, or both, and shall be entitled to introduce testimony by witnesses or, if the board so permits, by deposition.

(6) The board shall notify the holder of the license by registered United States mail of its decision which shall become final and conclusive thirty days after such notice.

(7) Any licensee who is aggrieved by an order of the board may procure a declaration of rights under the Declaratory Judgment Act by filing within thirty days after notice of the order, a complaint in equity against the board in the circuit court of the county in which the board maintains its principal offices, together with a bond with good and sufficient sureties to cover all costs. Summons and a copy of the complaint shall be served upon the Commissioner of Health and the commissioner shall within thirty days thereafter file with the court a transcript of the record of hearing together with a certified copy of the order complained of. The board may file an answer or such other pleadings as it considers appropriate and the court shall, after considering the transcript of the evidence and the board's order, enter judgment. No new or additional evidence shall be introduced in the circuit court. In the event the action of the board is not sustained, the court shall, upon the request of the board, remand the case for further proceedings. Any party aggrieved by the final judgment, order or decree rendered in the case by the circuit court may appeal therefrom to the Court of Appeals of Kentucky in the time, method and manner provided in the Declaratory Judgment Act and the Court of Appeals shall docket and advance the appeal as provided by law.

Section 12. (1) The Board may certify a violation of this Act to the Commonwealth, county or city attorney in whose jurisdiction the violation occurred, and such attorney shall proceed for the applicable fines and penalties, and for abatement of the unlawful condition or violation.

(2) In addition to the remedies herein provided, a temporary or permanent injunction restraining any person from violating any pro-

vision of this Act, irrespective of whether or not there exists an adequate remedy at law, may be maintained.

Section 13. All fees collected by the board under the provisions of this Act shall be paid into the State Treasury and credited to a trust and agency fund to be used by the board in defraying the costs and expenses in the administration and enforcement of this Act. No part of this fund shall revert to the general funds of the Commonwealth.

Section 14. Any person who violates any of the provisions of this Act, or any rule or regulation promulgated under the provisions of this Act shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days, or both, and for any subsequent offense shall be fined not less than five hundred dollars nor more than one thousand dollars, or imprisoned for not more than ninety days, or both. Each day of violation or non-compliance shall constitute a separate offense.

Section 15. Sections 216.400, 216.410, 216.420, 216.430, 216.440, 216.450, 216.460, 216.470, 216.480, 216.490, 216.500, and subsection (2) of Section 216.990 of the Kentucky Revised Statutes are hereby repealed.

Section 16. This Act shall be come effective July 1, 1958.

**SB 167:** AN ACT relating to adoption of children, and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Any person who has been a resident of any United States Army post, military reservation or fort within the State of Kentucky for one year, or a resident of this State who has resided on such United States Army post, military reservation or fort together aggregating one year before filing of the petition, may bring an action for adoption of a child in any county adjacent to said Army post or military reservation.

Section 2. Whereas there are now pending petitions for adoption and applications for same by various military personnel on military posts or reservations within the boundaries of this Commonwealth, and whereas it is imperative that such petitions and applications be disposed of forthwith, an emergency is hereby declared to exist and this act shall become effective upon its passage and approval by the Governor.

Committee on Education reported **SB 168, SB 174, HR 13, HB 21,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 168:** AN ACT relating to the Establishment, Operation, and Regulation of Independent Business Schools.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. As used in this Act, unless the context otherwise requires:

"Independent Business School" means an educational institution privately owned and operated by an owner, partnership, or corporation offering business courses for which tuition is charged in such subjects as typewriting, shorthand (manual or machine), filing and indexing, receptionist's duties, key-punch, teletype, penmanship, bookkeeping, accounting, office machines, business arithmetic, English, business letter writing, salesmanship, personality development, leadership training, public speaking, real estate, insurance, traffic, management, business psychology, business management, economics, and other related subjects of a similar character. (Exempt from this Act are schools offering a four-year college course recognized by the State Department of Education, and religious and non-profit independent business schools exempt from taxation under the laws of this state).

Section 2. Certificate Requirements.

(1) No person, partnership, or corporation shall conduct, operate, maintain, or establish an independent business school unless a certificate of approval therefor has been issued by the Superintendent of Public Instruction. The certificate shall be displayed in a conspicuous place within the main office of the school at all times.

(2) Every certificate shall expire on the thirtieth day of June of each year. The State Board of Education shall issue a new certificate for the ensuing year, in the absence of any reason or condition which might warrant the refusal of the granting of the certificate, upon receipt of the written request of the applicant and the annual fee therefor, as herein required.

(3) Every person, partnership, or corporation desiring to obtain a certificate of approval shall make a verified application to the Superintendent of Public Instruction upon forms prepared and furnished by the State Board of Education, setting forth the following information:

(a) The title or name of school, together with ownership and controlling officer thereof.

(b) The specific fields and courses of instruction which will be offered.

(c) The place or places where such instruction will be given and a description of the physical and sanitary facilities thereof.

(d) A specific listing of the equipment available for instruction in each field and course.

(e) The education and teaching qualifications of instructors and supervisors.

(f) Each initial application for a certificate shall be accompanied by a filing fee of $50. There shall be an annual renewal fee of $25. No fee shall be charged for a supplementary application for the approval of additional fields or courses of instruction. No change in address may be effected for any independent business school without the approval of the Superintendent of Public Instruction.

Section 3. State Board of Education to Make Rules and Regulations.

The State Board of Education shall promulgate and enforce reasonable regulations, not inconsistent herewith, to properly administer the provisions of this Act.

Section 4. Advisory Committee. Appointment of; Duties.

There shall be an advisory committee consisting of five members from the independent business schools who are owners or administrators appointed by the Superintendent of Public Instruction to advise and consult with the State Board of Education in the development of regulations and standards and the insuring of compliance with the provisions of this Act. The members of the committee shall be appointed for terms as follows: two members for one year terms and one member for two, three and four year terms respectively. All subsequent appointments shall be for a term of four years.

Section 5. Any agent representing an independent business school located within or without the state of Kentucky shall make application for an independent business school agent permit to the Superintendent of Public Instruction in writing, using forms prepared by the State Board of Education. Each application shall state the name of the school which the applicant will represent and shall contain such other information as the State Board of Education may require; shall be verified under oath by him, and shall be accompanied by the certificate of two reputable persons certifying that the applicant is truthful, honest, and of good reputation, and recommending that a permit as an agent be granted to the applicant. The fee for an original permit as an agent shall be $25, and there shall be an annual renewal fee of $10. A separate permit shall be obtained for each school represented by the agent. If the application is approved, the Superintendent of Public Instruction shall issue, sign, and deliver a permit to the applicant, who shall have same on his person at all times he is acting as an agent for his school.

Section 6. The State Board of Education may suspend or revoke a certificate for such period of time and upon such terms and conditions as it may deem proper, for any of the following causes:

(1) Obtaining a certificate through false or fraudulent representation.

(2) Making any substantial misrepresentation.

(3) Making any false promises of a character likely to influence, persuade or induce.

(4) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise.

(5) Any other conduct that constitutes improper, fraudulent, or dishonest dealing or practice.

Any unlawful act or violation of any of the provisions of this Act upon the part of any agent or employee of an independent business school shall not be cause for the suspension or revocation of the certificate of approval unless it shall appear to the satisfaction of the State Board of Education that any one or more of the controlling officers, members or managing employees had knowledge thereof.

Section 7. Any person or corporation violating the provisions of this Act shall, if a person, be punished by a fine of not to exceed $500, or by imprisonment for not to exceed one year, or both such fine and imprisonment; and, if a corporation, shall be punished by a fine of not to exceed $1,000. Any officer or agent of a corporation or member, or agent of a partnership or association, shall be subject to the penalties herein prescribed for individuals; and the County Attorney of the county where such offense is committed shall prosecute all persons violating the provisions of this Act upon proper complaint being made.

Section 8. Whereas, many independent business schools within the Commonwealth will soon start new terms and are now soliciting new students for enrollment, and the schools and students are in need of the protection provided for in this Act, an emergency is declared to exist, and this Act shall become effective immediately upon its passage and approval by the Governor.

**SB 174:** AN ACT relating to school superintendents.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The people of any county school district may choose to make the office of county school superintendent either an elective or an appointive office by an election on that question. Such an election shall not be held within three years of the last such election. The board of education shall bear the cost of the election.

Section 2. (1) Upon the written petition of a number of qualified voters residing in the county school district of a county equal to twenty-five percent of the votes cast in the district at the last preceding general election, the sense of the people shall be taken on the question of whether the office of county school superintendent should be an elective office. The petition shall be filed in the county court at least sixty days before the regular election day. It shall state each signer's post-office address, and the date on which he signed and may consist of one or more units.

(2) No signer may withdraw his name or have it taken from the petition after the petition has been filed. If the name of any person has been placed on the petition without his authority, he may appear before the county court before the election is ordered and upon proof that his name was placed upon the petition without his authority, his name shall be eliminated by order of the court.

Section 3. (1) Upon the filing of a petition for election the county court shall order an election on the question at the next general election. The county clerk shall give to the sheriff a certified copy of the order.

(2) Within five days after the court orders the election, the sheriff shall cause a notice to be published at least once a week for four consecutive weeks in the newspaper published in the county and having the largest bona fide circulation in the county, and shall post and maintain notices of the election on the courthouse door or the bulletin board for the courthouse, and in at least four public places in each precinct in the county school district. The notices posted by the sheriff shall be deemed sufficient notice for submission of the question to the voters.

Section 4. The county clerk shall cause the proposition to be voted upon to be printed upon the ballots for each precinct in the county school district. The proposition shall be put in the form of a question asking whether the voter favors having the office of county school superintendent an elective office.

Section 5. The board of election commissioners shall determine and declare the result of the election in the same manner as in regular elections for county offices and shall certify the results to the county court. At the next regular term of county court after the result is determined, the court shall order the results entered in its records.

Section 6. (a) If a majority of those voting upon the question whether to have the office of county school superintendent an elective office vote "yes", the office shall be filled by an election to be held at the first regular election for county offices after the expiration of the incumbent's term.

(b) After an option election making the county school superintendent an elective office, a board of education shall not appoint a superintendent for a term that extends past the next regular election for county offices.

Section 7. To be eligible for the office of county school superintendent, a person shall meet the following requirements:

(1) Hold a certificate of administration and supervision from the Department of Education;

(2) Be at least twenty-four years old and have been a resident of the Commonwealth for at least five years;

(3) Hold a bachelor's degree from a standard college;

(4) Have at least five years of administrative or supervisory experience in the public school system.

Section 8. (1) Candidates for county school superintendent shall be nominated by petition. The petition shall be signed by one hundred qualified voters of the district and filed in the office of the county clerk not more than sixty days nor less than forty-five days before election day. Each petition shall show the place of residence of each signer. No person shall sign more than one petition.

(2) The county clerk shall cause to be printed on a ballot separate from all other ballots the names of all nominees for county school superintendent. No party emblem, symbol, or other device to indicate the political affiliation of any candidate shall be placed on the ballot. The names of the candidates shall be rotated on the ballots in the manner prescribed for election of members of the board of education.

Section 9. The general election laws shall govern both the election on the question of having the office elective and the elections for filling the office of county school superintendent in all matters not specifically prescribed.

Section 10. An elected county superintendent shall take office on the first Monday in January following his election. He shall serve for a term of four years and may be elected for a succeeding term or terms.

Section 11. The county board of education shall fix the salary of the county school superintendent, prior to the time of his taking office, at not less than five thousand dollars per annum. The salary shall be paid in monthly installments.

Section 12. If the certificate of administration and supervision of a county school superintendent is revoked, he shall immediately forfeit his office.

Section 13. Section 160.350 of the Kentucky Revised Statutes is amended to read as follows:

The board of education in each independent school district, and in each county district in which the office is not elective, shall appoint a superintendent of schools whose term of office shall begin on July 1 following his appointment. The appointment may be for a term of one, two, three or four years. The board shall fix the salary of the superintendent at not less than five thousand dollars per annum, to be paid in monthly installments. In the case of a vacancy in the office for an unexpired term, the board of education shall make the appointment so that the term will end on June 30. Before any superintendent shall assume his duties he shall present to the board of education that elected him a statement signed by the Superintendent of Public Instruction that he has been duly issued a certificate of administration and supervision issued in accordance with the provisions of law and which qualifies him to hold the position to which he has been elected, and he shall hold such certificate throughout the period of his employment. A superintendent of schools may be removed for cause by a vote of three members of the board of education. Written notice setting out the charges for removal shall be spread on the minutes of the board and given the superintendent fifteen days before action is taken on his removal.

Section 14. Section 160.370 of the Kentucky Revised Statutes is amended to read as follows:

The superintendent shall be the executive agent of the board in the district that appoints him or in which he is elected, and shall meet with the board except when his own tenure, salary, or the administration of his office is under consideration. As executive officer of the board, the superintendent shall see that the laws relating to the schools, the bylaws, rules and regulations of the State Board of Education, and the regulations and policies of the district board of education are carried into effect. He may administer the oath required by the board of education to any teacher or other person. He shall be the professional adviser of the board in all matters except as provided in KRS 160.430. He shall prepare, under the direction of the board, all rules, regulations, bylaws and statements of policy for approval and adoption by the board. He shall have general supervision, subject to the control of the board of education, of the general conduct of the schools, the course of instruction, the management of teachers, the discipline of pupils, and the management of business affairs, except as provided in KRS 160.430.

**HR 13:** A JOINT RESOLUTION addressed to the Kentucky Department of Education requesting that it use all means to obtain federal aid for education.

WHEREAS, the Federal Government has launched a study of the educational systems of the country; and

WHEREAS, it is proposed in Congress that federal assistance be given to the schools of the various states; and

WHEREAS, there is now needed a greater effort on the part of the schools to train and educate the youth of America, especially in the technological sciences; and

WHEREAS, a democracy depends upon an appreciation of the humanities; and

WHEREAS, it appears that money will be made available for use by the states to aid in implementing the program;

NOW, THEREFORE,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the State Department of Education is hereby requested and urged to take all necessary and possible steps with the view of obtaining federal aid to a greater degree, and that the Department prepare and have ready the necessary planning to fully utilize whatever aid may be given.

**HB 21:** AN ACT relating to teacher's retirement.

Section 161.605 of the Kentucky Revised Statutes is amended to read as follows:

Retired teachers may do substitute teaching in the public schools of Kentucky for a period not to exceed sixty days in any one school year, and receive compensation for same without reduction in retirement annuities.

Committee on Suffrage, Elections and Constitutional Amendments reported **SB 45** with committee amendments attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 45:** AN ACT relating to voting machines; providing a method of procurement thereof and payment therefor.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. As used in this Act, unless the context otherwise requires:

(1) "Commission" means the State Property and Buildings Commission or the agency succeeding to the principal functions thereof;

(2) "Project", or the words, "Voting machine Project", means a public project as defined in KRS Chapter 58;

(3) "Cost" means the cost of purchase of voting machines, the cost of freight and transportation, the cost of insurance on said voting machines, the cost of preparing, issuing, selling or exchanging revenue bonds as provided for in this Act, and shall further embrace and include all expenses, including legal fees, in connection therewith;

(4) "Bonds", or the words, "Voting machine revenue bonds", means Commonwealth of Kentucky, State Property and Buildings Commission, voting machine revenue bonds.

Section 2. In order to facilitate the use of voting machines in this Commonwealth, to eliminate the antiquated manner in which elections are now conducted, and to provide a public project for this purpose; to provide a plan for the purchase and use of modern voting machines in all counties desiring to use or purchase same and to provide a way for the counties to purchase said machines under a rent-purchase contract, so that they will be available for use while being paid for by said counties, the State Property and Buildings Commission shall purchase voting machines meeting all the specifications and requirements of KRS Chapter 125, for any counties which contract for same as provided for in this Act; and the commission is authorized to issue revenue bonds to finance such project.

Section 3. The commission may:

(1) Advertise for and receive proposals for the purchase of voting machines in sufficient number to supply the needs of all counties; the commission shall not purchase any voting machines for the use of any county until the county has contracted with said commission for the rental and purchase of said voting machines as provided for herein;

(2) Issue voting machine revenue bonds of the Commonwealth of Kentucky, payable solely from the revenues pledged for their payment; the revenue bonds issued by the commission can be issued, sold or exchanged as provided for in this Act, or as provided for in KRS Chapters 56 and 58;

(3) The commission is empowered to use any provision contained in the above-mentioned Chapters or in this Act, separately, or a combination thereof.

Section 4. Any contract between a county and the commission for the rent-purchase of voting machines shall provide that the yearly rental will be sufficient to pay all costs of the project, including the principal of and interest on revenue bonds, so that the entire cost shall be at the expense of the county and that upon payment of the entire costs of the project title to the voting machines shall be transferred to the county.

Section 5. All funds received by the commission under the terms of the rent-purchase contracts shall be placed in a sinking fund, and shall not be used for any purpose except to pay the cost of the public project, and for the payment of the principal of and the interest on revenue bonds as provided for in this Act.

Section 6. Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a debt of the Commonwealth or of any political subdivision thereof, nor a pledge of the credit of the Commonwealth or of any political subdivision thereof; but such bonds shall be payable solely from funds herein provided. All such revenue bonds shall contain on the face thereof a statement to the effect that the Commonwealth shall not be obligated to pay the same, or the interest thereon, except from revenues of the project or projects for which they are issued; and that neither the credit nor the taxing power of the Commonwealth is pledged to the payment of the principal of, or the interest on, such bonds.

### Calendar

**SB 8, SB 117, SB 115, SB 119, SB 178, SB 200, SB 143, HB 205, SB 86, SB 155, SB 130, SB 154** were taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that they be read by title only. Agreed by a majority of the members elected. Ordered placd in Orders of the Day.

### Orders of the Day

**SB 62** taken from the Orders of the Day and ordered read at length for the third time. Senator Overbey moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Overbey moved the Previous Question on **SB 62.** Agreed.

On roll call, the vote was: Yeas 32—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware; Willis. Nays 1—McCann.

**SB 62** was passed and the title agreed to.

Senator Overbey moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

### House Message

Announcing passage of **HR 65, HB 12, HB 140, HB 157.** Ordered that said bills be referred.

### Orders of the Day

Committee Substitute for **SB 42** taken from the Orders of the Day and ordered read at length for the third time. Senator Ware moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Ware moved that the Committee Substitute for **SB 42** be adopted.

Committee Substitute for **SB 42:** AN ACT relating to tobacco research.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. In enacting this legislation it is the intention of the General Assembly to find new uses for Kentucky's tobacco surplus to avoid further cuts in acreage quotas and to solve other problems adversely affecting the economy of the Commonwealth.

Section 2. There shall be established in the Agricultural Experiment Station of the University of Kentucky, a research project to promote greater utilization for Kentucky tobacco with particular emphasis on new uses and new products.

Section 3. All property rights or income resulting from research under this Act shall be credited to the research project herein established and shall be used for continued research into new uses for tobacco.

Section 4. On or about January 1 of each year the director of the Agricultural Experiment Station shall make a progress report to the Governor, the General Assembly, the Board of Trustees of the University of Kentucky and the press of the Commonwealth; except in such instances where revelation of such report may adversely affect a successful culmination of that portion or portions of the research.

Section 5. None of the monies appropriated for the purpose of this Act shall be used for research leading to increased tobacco production nor for research into tobacco disease control, except where such research is considered necessary to develop greater utilization or new products.

Section 6. To carry out the purposes of this Act, the sum of fifty thousand dollars for the 1958-1959 fiscal year and the sum of fifty thousand dollars for the 1959-1960 fiscal year is appropriated to the Agricultural Experiment Station of the University of Kentucky out of the General Fund.

Section 7. Any monies not expended in the first year of the biennium shall be available for this program in the second year of the biennium and shall not revert to the general fund.

Adopted by voice vote.

Senator Ware moved the Previous Question on **SB 42** by way of Committee Substitute. Agreed.

On roll call, the vote was: Yeas 33—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Kelly, Knuckles, Lucas, McCann, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis. Nays 0.

**SB 42** was passed and the title agreed to.

Senator Ware moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

## Motions

Senator Bonn moved to suspend the Rules for the purpose of appointing Honorary Pages in the Senate. Agreed.

Senator Bonn moved that Andy Tomes and Annette Thomas be made Honorary Pages of the Senate. Agreed.

Senator Fields moved suspension of the Rules to make a motion. Agreed.

Senator Fields moved that when the Senate adjourns today, it adjourn in respect to oganized labor in Kentucky. Agreed.

## Orders of the Day

**SB 40** taken from the Orders of the Day and ordered read at length for the third time. Senator Howard moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Howard proposed Amendment No. 1 to **SB 40.**

Amend printed copy of **SB 40** on page 1, line 1 by striking therefrom the word "shall" and inserting in lieu thereof the word "may".

Senator Howard moved the adoption of said Amendment. Adopted by voice vote.

Senator Howard proposed Amendment No. 2 to **SB 40.**

Amend printed copy of **SB 40** on page 2, line 4 by striking therefrom the word "shall" and inserting in lieu thereof the word "may".

Senator Howard moved the adoption of said Amendment. Adopted by voice vote.

Senator Howard, seconded by Senator Freeman, moved the Previous Question on **SB 40,** and a roll call being demanded by Senators Lucas and Overbey, the vote was: Yeas, 12; Nays, 19.

On roll call, the vote was: Yeas 12—Bassett, Blake, Bonn, Duffy, Francis, Freeman, Hickerson, Howard, Jackson, Kelly, Knuckles, McCann. Nays 19—Anggelis, Blue, Clay, Cornett, C. H. Davis, Mrs. J. Harry Davis, Duncan, Fields, Hamilton, Howell, Lucas, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis.

Motion on Previous Question was lost.

Senator Lucas proposed Amendment No. 3 to **SB 40.**

Amend printed copy of **SB 40** on page 2, line 6 by striking line six, and substituting in lieu thereof the following:

monwealth. State colleges shall also be established and maintained in London, Mt. Vernon, Manchester, McKee, Booneville, Grayson, Hyden, Pikeville, Paducah, Horse Cave, Hopkinsville, and Price, Kentucky.

Senator Van Hoose offered an amendment to Amendment No. 3.

Amend printed copy of **SB 40** on page 2, line 6 by adding Tutor Key, Kentucky.

Senator Overbey, seconded by Senator Richmond, moved that **SB 40** be placed on the table. Lost on voice vote.

Senator Van Hoose then moved the adoption of the amendment to Amendment No. 3.

And a roll call being demanded by Senators Overbey and Lucas, the vote was: Yeas, 13; Nays, 16.

On roll call, the vote was: Yeas 13—Blue, Cornett, C. H. Davis, Mrs. J. H. Davis, Duncan, Howell, Lucas, Miller, Overbey, Richmond, Robinson, Van Hoose, Ware. Nays 16—Anggelis, Blake, Bonn, Byers, Clay, Duffy, Francis, Freeman, Greene, Hickerson, Howard, Jackson, Knuckles, McCann, Reuscher, Willis.

The said amendment lost.

Senator Lucas moved the adoption of Amendment No. 3 to **SB 40.** Lost on voice vote.

The roll call being taken on **SB 40,** the vote was: Yeas, 20; Nays, 8.

On roll call, the vote was: Yeas 20—Blake, Blue, Bonn, Byers, Duffy, Fields, Francis, Freeman, Greene, Hickerson, Howard, Howell, Jackson, Johnson, Knuckles, McCann, Miller, Van Hoose, Ware, Willis. Nays 8—Anggelis, Bassett, Clay, C. H. Davis, Overbey, Reuscher, Richmond, Robinson.

**SB 40** was passed and the title agreed to.

Senator Howard moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed by voice vote.

### Motions

Senator Kelly moved to suspend the Rules for the purpose of appointing Honorary Pages in the Senate. Agreed.

Senator Kelly moved that Billy Joe Cummings be made an Honorary Page of the Senate. Agreed.

### Orders of the Day

**HB 119** taken from the Orders of the Day and ordered read at length for the third time. Senator Fields moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Fields moved that the Committee Amendment to **HB 119** be adopted.

Amend printed copy of **HB 119** on page 9, section 6, lines 8, 9 and 10 by striking therefrom the following:

"(a) Contributions were payable to his account with respect to the thirty-six months immediately preceding the computation date; and"

and substituting therefor the following:

"(a) Benefits were chargeable to his account with respect to the thirty-six consecutive months immediately preceding the computation date; and"

Adopted by voice vote.

Senator Fields moved the Previous Question on **HB 119.** Agreed.

On roll call, the vote was: Yeas 32—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, McCann, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Willis. Nays 0.

**HB 119** was passed and the title agreed to.

**SB 136** taken from the Orders of the Day and ordered read at length for the third time. Senator C. H. Davis moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Overbey moved the Previous Question on **SB 136.** Agreed.

On roll call, the vote was: Yeas 26—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Cornett, C. H. Davis, Fields, Francis, Freeman, Hamilton, Hickerson, Howard, Howell, Jackson, Kelly, Knuckles, Lucas, McCann, Miller, Overbey, Richmond, Robinson, Ware, Willis. Nays 1—Van Hoose.

**SB 136** was passed and the title agreed to.

Senator McCann moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**HR 65** taken from the Orders of the Day. Senator Bassett moved the adoption of said resolution.

**HR 65:** A CONCURRENT RESOLUTION relating to adjournment of the General Assembly.

*Be it resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That when the House of Representatives and the Senate adjourn on Wednesday, February 19, 1958 they adjourn to Thursday, February 20, 1958, 10 a.m. and that at 10:30 both the House of Representatives and the Senate recess for the purpose of repairing to the Capital Theater in Frankfort to view the film entitled "Freedom," to be shown at 11 a.m.

Section 2. The House of Representatives and the Senate will then reconvene at 1 p.m., Thursday, February 20, 1958.

**HR 65** adopted by voice vote.

## Introductions

Senator Ware moved to suspend the Rules for the purpose of introducing a bill. Agreed.

**SB 225**, by Senators Ware and Van Hoose: AN ACT prohibiting solicitation of legal business with expectation of pecuniary reward therefor, and providing penalty for same.

### Report of Committees

Senator Richmond moved to suspend the Rules for the purpose of making Committee Reports. Agreed.

Committee on Education reported **SB 148** without expression of opinion; **SB 164** with committee amendment attached thereto without expression of opinion.

Committee on Revenue and Taxation reported **SB 7** with the expression of opinion that the same should not pass.

Senator Anggelis moved that **SB 7** be read into the Calendar over the Committee Report. Motion lost on voice vote.

### Reference of Bills

The President announced referral of the following bills and resolutions:

Executive and Legislative Affairs: **SB 197, SB 205, SB 215, SR 44.**

Health and Welfare: **SB 198, SB 208.**

Ways and Means: **SB 199, SB 202, SB 203, SB 207, HB 72.**

Military Affairs and Civil Defense: **SB 201.**

Agriculture and State Fair: **SB 204.**

Banking and Insurance: **SB 206, SB 211.**

Municipalities: **SB 209, HB 111.**

Suffrage, Elections and Constitutional Amendments: **SB 210, SB 216, HB 85.**

Conservation: **SB 212, SB 213, SB 217.**

Appropriations: **SB 214, HB 93.**

Revenue and Taxation: **HB 151, HB 152.**

Senator Bassett moved adjournment until 10:00 a.m., Thursday, February 20, 1958. Agreed.

## THURSDAY, FEBRUARY 20, 1958

## THIRTY-SIXTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by Senator E. W. Richmond.

The roll was called. All members present except Senators Kidwell, Melton, Warinner, and Young, who were granted leave of absence on motion of Senator McCann.

The reading of the Journal for Wednesday, February 19, 1958, dispensed with and the same approved on motion of Senator McCann.

### Motions

Senator Johnson moved that **SB 165** be recommitted to the Committee on Health and Welfare. Agreed.

### Introductions

**SB 226**, by Senators Melton and Freeman: AN ACT relating to the erection of a statue in memory of Alben William Barkley, and making an appropriation therefor.

**SB 227**, by Senator Bassett: AN ACT repealing KRS 57.330 which requires distribution of copies of the Acts of Congress to enumerated public officials.

**SB 228**, by Senators Johnson and Howell: AN ACT relating to judgments for costs in misdemeanor cases, and declaring an emergency.

**SB 229**, by Senators Johnson and Howell: AN ACT relating to the compensation of justices of the peace and declaring an emergency.

### Report of Committees

Committee on Executive and Legislative Affairs reported **SB 103, SB 47, SB 189, SB 181, SB 191, SB 166, SB 84** with committee amendments attached thereto, **SB 192, SB 169** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 103:** AN ACT relating to a Dental Scholarship Program.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. In enacting legislation relating to a Rural Kentucky Dental Scholarship Fund, the General Assembly has as its purpose the alleviation of the shortage of dentists in certain rural areas of the Commonwealth.

Section 2. As used in this Act, unless the context requires otherwise, "Board" means the Kentucky State Board of Dental Examiners.

Section 3. (1) There is hereby established within the Department of Health, a Rural Kentucky Dental Scholarship Fund.

(2) Commencing July 1, 1958, there shall be available each fiscal year to applicants selected by the Board with the approval of the Dental Division of the State Department of Health, ten scholarships for the study of dentistry leading to the attainment of the degree of Doctor of Dental Surgery, or some equivalent degree. If in any years less than ten scholarships are awarded, the number available but not granted shall be carried over and added to those available in succeeding years.

(3) A scholarship shall not exceed one thousand five hundred dollars per annum. No recipient of a scholarship shall receive more than six thousand dollars for his entire course of dental study.

(4) In granting scholarships, the board shall make a careful and full investigation of the ability, character and qualifications of each applicant, and may personally examine each applicant. The board shall, whenever possible, grant financial assistance to the applicants with the greatest financial need, provided such persons are found to possess such qualities as give reasonable assurance of their successfully completing the course of study made possible by the scholarship.

Section 4. (1) To be eligible for a scholarship made available under this Act, an applicant must:

(a) Have been a resident of this Commonwealth for not less than five years immediately preceding the date of application.

(b) Be acceptable for enrollment in a dental school accredited by the Council on Dental Education of the American Dental Association, and approved by the board; and

(c) Furnish satisfactory evidence to the board that he does not have sufficient financial resources to enable him to study dentistry without assistance.

(2) Before a scholarship is granted, the applicant shall contract in writing with the board, that he will, within six months from the date he completes his term of study, engage in the practice of dentistry in a locality or localities within this Commonwealth to be designated by the Dental Division of the State Department of Health, at the rate of one year for each one thousand five hundred dollars received, or proportional time for lesser amounts.

Section 5. (1) If the recipient of a scholarship fails, without justifiable cause to practice dentistry in the locality designated, the entire amount of scholarship benefits received under the provisions of this Act plus six percent interest thereon, shall become due and payable. However, where the board determines there is justifiable cause for the failure to practice, it may relieve the recipient of the obligation to practice, and shall provide for repayment of the amount received plus six percent interest on any terms it deems proper.

(2) Upon recommendation of the board, the Attorney General shall institute proceedings for the purpose of recovering any amount due the Commonwealth under the provisions of this section.

(3) Failure of a recipient of a scholarship to perform his obligations with respect to his contract to practice in a designated locality shall constitute grounds for revocation of his license to practice dentistry within the Commonwealth.

Section 6. The board may promulgate reasonable rules and regulations for the purpose of carrying out the provisions of this Act.

Section 7. Funds appropriated for the purpose of the Rural Kentucky Dental Scholarship Fund, and sums received as a result of violations of service agreements shall be placed in the State Treasury to the credit of a trust or agency fund for the purpose of carrying out the provisions of this Act. Provided, however, that any sums in excess of fifty thousand dollars at the end of each biennium shall revert to the General Fund.

Section 8. For the purposes of this Act there is hereby appropriated from the General Fund to the Department of Health, the sum of $15,000 for each of the fiscal years 1958-1959 and 1959-1960.

**SB 47:** AN ACT requiring open or public meetings of all public commissions, boards and councils, and the other agencies and departments in this state.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. In enacting this chapter, the legislature finds and declares that the public commissions, boards and councils and the other public agencies and departments in this state exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

Section 2. As used in this chapter "the other public agencies and departments in this state" means the governing boards, commissions, departments and all other state agencies.

As used in this chapter, "local agency" means a county, city, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

Section 3. All meetings of any public commission, boards, councils, and the other public agencies and departments of this state whether local or state shall be open and public, and all persons shall be permitted to attend any of the meetings of the public commissions, boards, councils and the other public agencies and departments of this state, except as otherwise provided in this Chapter.

Section 4. All of said public commissions, boards and councils and the other public agencies and departments in this state shall provide, by ordinance, resolution, by-laws or by whatever other rule is required for the conduct of business by that body, the time for holding regular meetings.

Section 5. Said regular meetings may be adjourned to a time and place specified in the order of adjournment. When so adjourned, the adjourned meeting is a regular meeting for all purposes. When an order of adjournment of a regular or adjourned meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified by ordinance, resolution, by-laws, or whatever other rule is required for regular meetings.

Section 6. A special meeting may be ordered at any time by the presiding officer of any public commission, board and council, and the other public agencies and departments in this state, or by a majority of the members of said body, by delivering personally or by mail written notice to each member of said body and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice. The order shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting by said body.

Section 7. The provisions of this Chapter shall apply to all public boards, commissions, agencies or authority of the state of Kentucky, and the governing board, commission, agency or authority of any political sub-division exercising legislative, regulatory or directive powers.

**SB 189:** AN ACT relating to the financing of buildings and appurtenances at state educational institutions and amending Sections 162.350, 162.360, 162.370 and 162.380 of the Kentucky Revised Statutes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 162.350 of the Kentucky Revised Statutes is amended to read as follows:

The governing body of a state educational institution erecting a building or buildings pursuant to KRS 162.340 is subject to the provisions of KRS 162.170 to 162.240, KRS 162.260, 162.270 and 162.290, except that part of KRS 162.190 that provides that the bonds shall be payable solely from the revenue derived from the particular building or buildings thus erected and also except that part of KRS 162.170 that requires compliance with KRS 162.160. When so applied these sections shall be so read that:

(1) "City" means "state educational institution."

(2) "Ordinance" means "resolution."

(3) "Governing body of the city" means "governing body of the institution."

(4) "School buildings" means the type of buildings contemplated by KRS 162.340.

(5) "Thirty years" in KRS 162.180 means "forty years."

(6) "KRS 162.230" in KRS 162.190 and 162.220, means "KRS 162.230, 162.360 and 162.370."

(7) "KRS 162.150 to KRS 162.280" means "KRS 162.350 to 162.380."

Section 2. Section 162.360 of the Kentucky Revised Statutes is amended to read as follows:

The governing body of a state educational institution erecting a building or buildings and appurtenances under the provisions of KRS 162.340 shall, by resolution, provide that the bonds shall be payable, solely from the revenues of such building or buildings, provided, said governing body may in its discretion, by said resolution, also provide that the bonds shall be payable from the revenues of any other building or buildings theretofore or as may be thereafter erected and used, in connection with the institution for educational purposes provided, further, any such provision for the payment of the bonds from the revenues of such other building or buildings theretofore erected shall be subject to and in all respects in full conformity and compliance with the rights of the holders of any bonds or obligations payable from the revenues of such other building or buildings theretofore issued by the governing body then outstanding. The resolution shall fix the initial minimum rents, tolls, fees, and other charges to be imposed in connection with the services furnished by the building or buildings to be erected and may also provide that the governing body of the institution shall monthly as the service accrues pay from the current funds of the institution or from student fees, or both, into the special fund provided by KRS 162.230 as that section is made applicable by KRS 162.350 a minimum amount representing the reasonable cost and value of any service rendered to the educational institution by such building or buildings in furnishing any educational facilities in the operation of the educational institution. The resolution shall fix the extent of the pledge of revenues from such other building or buildings toward the payment of the bonds and interest thereon and may specify the terms and conditions upon which additional bonds may be thereafter issued and sold ranking on a parity with and payable from the same source as the bonds authorized by such resolution, and such additional parity bonds may thereafter be so issued and sold to pay all or any part of the cost of building or buildings and appurtenances. The resolution shall definitely fix the minimum amount of revenues necessary to be set apart on or before stated intervals and applied to the payment of the principal and interest on the bonds and the balance of the income and revenues shall be set aside as a proper operation and maintenance fund, including a sufficient sum to pay the cost of insuring the building or buildings against loss or damage by fire and windstorm or other calamity as may have been stipulated in the resolution or resolutions authorizing the bonds. The charges for the services from the building or buildings, together with the available revenues of any other building or buildings pledged to the payment of said bonds and interest thereon, shall be sufficient at all times to provide for the payment of such interest and to create a sinking fund to accomplish retirement of such bonds at or before maturity, and to pay the current operation and maintenance expenses of the building or buildings to the extent such expenses are not otherwise provided. The charges shall be revised from time to time so as to produce these amounts.

Section 3. Section 162.370 of the Kentucky Revised Statutes is amended to read as follows:

If a surplus is accumulated in the maintenance fund equal to the cost of maintaining the building or buildings during the remaining portion of the calendar or fiscal year, as may be provided by the resolution adopted under KRS 162.360 and the cost of maintaining and operating the building or buildings the succeeding like calendar or fiscal year, the excess over such amount may be transferred at any time by the governing body, to the sinking fund or may be used for any improvements, extensions or additions to the building or buildings.

Section 4. Section 162.380 of the Kentucky Revised Statutes is amended to read as follows:

The bonds issued under authority of KRS 162.350 shall be obligations only of the governing body of the institution, payable as to both principal and interest from the revenues as pledged for that purpose. In no event shall they be considered a debt for which the credit of the state is pledged. Any resolution adopted under the provisions of KRS 162.350 or 162.360 shall constitute a contract between the governing body of the institution and the holder of any bond or coupon and shall be binding in all respects upon the governing body of the institution and its successors.

**SB 181:** AN ACT Relating to the Elimination of Hazards at Railroad-Highway Crossings by Means of Grade Separation Structures or Automatic Warning Devices and Providing for Allocation and Apportionment of the Costs of Construction, Installation and Maintenance Thereof.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The entire construction costs of projects for the elimination of hazards of railroad-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate railroad grade crossings which may be paid for in whole or part from State funds, including, but not limited to, the cost of preparing the plans and specifications and supervising the improvement, the acquisition of necessary property, the construction of approaches, drainage structures, roadways and pavements, accommodations for public utilities, and damages paid to abutting property owners, shall be allocated between the railroad involved, and the governmental unit or units involved in the same ratio as the net benefits received by such railroad from the project bears to the net benefit accruing to the public using the highway, and in no case shall the net benefit to any railroad or railroads be deemed to be more than 10% of the total benefit resulting from the project. The Department of Highways shall be responsible for determining the proportion of the benefits derived by the railroad from the project, and shall fix standards for the determining of said benefits which shall be consistent with the standards adopted for similar purposes by the United States Bureau of Public Roads under the Federal-Aid-Highway Act of 1944. The cost of maintenance of all structures for the elimination of railroad grade crossings, and of installations for the protection of existing grade crossings, constructed or installed under this act, shall be borne by the governmental unit or units constructing them. Before any State fund shall be expended for any project constructed under this Act, a contract shall be entered into between the railroad and the governmental unit or units involved setting forth the duties of each as to construction and maintenance of the project.

Section 2. All statutes in conflict herewith are hereby repealed.

**SB 191:** AN ACT relating to commissioners for the Court of Appeals.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

In accordance with the provisions of KRS 21.150 (1), the judges of the Court of Appeals, a majority of them concurring, are authorized to appoint not more than three commissioners in addition to those specified in KRS 21.150. All provisions of law applicable to the commissioners appointed pursuant to KRS 21.150 (1) shall be applicable to the commissioners appointed hereunder.

**SB 166:** AN ACT relating to nuclear energy.

WHEREAS, the peaceful use of atomic energy presents problems of legislation and regulation by both the Federal and State governments within the orbits of their respective jurisdictions;

WHEREAS, it is deemed desirable that the Commonwealth of Kentucky promptly enact appropriate legislation applicable to the many aspects of the peaceful use of atomic energy in order to obtain maximum benefits and safety for the people of the Commonwealth; and

WHEREAS, it is deemed desirable that the Commonwealth of Kentucky establish and maintain an environment favorable to the development of industrial, education and scientific applications of atomic energy;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. DECLARATION OF POLICY

(1) The General Assembly of the Commonwealth of Kentucky endorses the action of the Congress of the United States in instituting a program to encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public; and therefore, in enacting this legislation, it is the intention of the General Assembly to provide for:

(a) Active participation in the program thus instituted; and

(b) The exercise of legislative and regulatory powers of the Commonwealth so as to aid and assist for the common good, and, within the limits of proper Federal jurisdiction, the enforcement of the provisions of the Atomic Energy Act of 1954 and amendments and regulations issued thereunder.

(2) The General Assembly recognizes that the development, utilization and production of atomic energy may result in new conditions calling for changes in the laws of the Commonwealth and in regulations issued thereunder with respect to health, safety, and working conditions; workmen's compensation; transportation and public utilities; life, health, accident, fire and casualty insurance; the conservation of natural resources, including wildlife; and the protection of streams, rivers and air space from pollution; and therefore declares the policy of the Commonwealth to be:

(a) To adapt its laws and regulations to meet the new and changing conditions in ways that will encourage and support a prudent program of information and research relative to nuclear development in the fields of education, science, agriculture, industry, transportation, medicine, public health, and all other fields of endeavor which may aid in or be benefited by nuclear development and nuclear science and engineering, while at the same time protecting the public interests;

(b) To assure continuing studies of the need for changes in the relevant laws and regulations by the respective departments and agencies of the Commonwealth which are responsible for their administration; and

(c) To assure coordination of the studies thus undertaken, particularly with other atomic development activities within the Commonwealth and with the development and proper regulatory activities of other states and of the government of the United States.

### SECTION 2. DEFINITIONS.

As used in this Act, unless the context otherwise requires:

(1) "Atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

(2) "By-product material" means any radioactive material, except special nuclear materials, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing nuclear materials.

(3) "Production facility" means (a) any equipment or device capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (b) any important component part especially designed for such equipment or device.

(4) "Special nuclear material" means (a) plutonium and uranium enriched in the isotope 233 or in the isotope 235 and any other material after the United States Atomic Energy Commission has determined the material to be such; or (b) any material artifically enriched by any of the foregoing.

(5) "Utilization facility" means (a) any equipment or device, except an atomic weapon, capable of making use of special nuclear materials in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (b) any important component part especially designed for such equipment or device.

### SECTION 3. CONDUCT OF STUDIES AND ADOPTION OF REGULATIONS RELATIVE TO NUCLEAR ACTIVITIES.

(1) Each of the following departments and agencies of the State

government is directed to initiate and to pursue continuing studies as to the need for changes in the laws and regulations administered by it that would arise from the presence within the Commonwealth of special nuclear materials and by-product material and from the operation herein of production or utilization facilities, and on the basis of such studies, and in accordance with this Act are authorized to adopt such reasonable rules and regulations relative to its functions as are necessary to meet the needs of the Commonwealth. These departments and agencies shall also conduct studies in such other matters and activities relating to nuclear energy, as the Governor may direct and for the purposes specified by him; and shall bring to the attention of the agencies hereinafter designated for that purpose the findings and appropriate steps indicated by such studies.

(a) State Department of Health, particularly as to hazards to public health and safety, including the protection of air space and all ground and surface waters, in cooperation with other pollution control agencies.

(b) The Department of Industrial Relations and the Workmen's Compensation Board, particularly as to hazardous working conditions and to the time and character of proof of claims of injuries and disease and the extent of the compensation liable therefor;

(c) The Department of Motor Transportation, particularly as to the transportation of special nuclear materials and by-product material on highways of the Commonwealth;

(d) The Railroad Commission, particularly as to the transportation of special nuclear materials and by-product material by common carriers in intrastate commerce on the railroads of the Commonwealth;

(e) The Department of Aeronautics, particularly as to the transportation of special nuclear materials and by-product material by air;

(f) The Public Service Commission, particularly as to the participation by public utilities subject to its jurisdiction in projects looking to the development of production or utilization facilities for industrial or commercial use;

(g) The Department of Insurance, particularly as to the insurance of persons and property from hazards to life and property resulting from atomic energy development;

(h) Department of Conservation, particularly as to the hazards, if any, to the natural resources of the Commonwealth;

(i) Department of Fish and Wildlife Resources, particularly as to the protection of wildlife within the Commonwealth;

(j) Department of Mines and Minerals, particularly as the possibility of disposal of radioactive wastes in subterranean areas;

(k) Such other departments and agencies (including additional departments and agencies of political subdivisions of the Commonwealth) as the Governor may direct and for the purposes specified by him.

SECTION 4. COORDINATION OF RULES AND REGULATIONS.

(1) All rules and regulations, except emergency regulations adopted in pursuance to KRS Chapter 13, proposed in accordance with Section 3 of this Act, shall be submitted to the Advisory Committee on Nuclear Energy not less than thirty days prior to filing of such rules and regulations with the Legislative Research Commission, for the purpose of coordination by the Advisory Committee on Nuclear Energy.

SECTION 5. ADVISORY COMMITTEE ON NUCLEAR ENERGY.

(1) There shall be a committee, attached to the Department of Economic Development, to be known as the Advisory Committee on Nuclear Energy, to advise and coordinate with the Governor in respect to atomic energy developments, industrial or otherwise, within the Commonwealth. The committee shall consist of not more than seventeen members, appointed by the Governor from the various activities in which nuclear energy exerts the greatest influence. Members shall be residents of the Commonwealth. Members of the Kentucky Advisory Committee on Nuclear Energy created by executive order dated June 13, 1957, shall succeed to membership on the committee created by this Section and continue to serve at the discretion of the Governor, provided they hold such membership on the effective date of this Act.

(2) The Director of the Nuclear Information, Department of Economic Development, shall be ex-officio the executive secretary of the committee, and shall serve as coordinator and provide administrative services for accomplishing through his parent organization, the Department of Economic Development, the adopted directives of the committee.

(3) The members of the Committee shall receive no salary for services performed on such committee, but may be reimbursed for necessary and actual travel expenses incurred in connection with attendance at official meetings of the committee or subcommittees thereof.

SECTION 6. FUNCTIONS OF THE COMMITTEE.

The committee shall evaluate studies, recommendations, and proposals of the several departments and agencies and shall act as an advisory and coordinating group in the development and regulatory activities of the Commonwealth relating to atomic energy, including cooperation with other states and with the government of the United States. The committee shall be responsible for keeping the Governor and the interested departments and agencies informed through the Director of Nuclear Information, Department of Economic Development, as to private and public activities affecting atomic developments and may enlist the cooperation of departments and agencies in taking action to further such development.

### SECTION 7. DIVISION OF NUCLEAR INFORMATION.

(1) There shall be a Division of Nuclear Information in the Department of Economic Development. The division shall be staffed by a director, and such other personnel as may, in the opinion of the Commissioner of Economic Development, be necessary to its function. The division, under administrative control of its parent department, shall function as the principal operational agency of the Commonwealth in promoting peaceful uses of atomic energy consistent with the health, safety and welfare of the Commonwealth. The director shall be a citizen of the United States and a resident of the Commonwealth of Kentucky.

(2) So far as may be practicable, the Division of Nuclear Information and the Advisory Committee on Nuclear Energy shall coordinate studies conducted, recommendations and proposals with like activities in other states and in the South as a region, and with the policies and regulations of the United States Atomic Energy Commission.

### SECTION 8. IMPLEMENTATION OF ACT.

The Advisory Committee on Nuclear Energy shall formulate and recommend to the Governor rules and regulations which are reasonably necessary to implement or carry out the provisions of the Act.

### SECTION 9. UNITED STATES LICENSES OR PERMITS.

No person shall manufacture, construct, produce, transfer, acquire or possess any special nuclear material, by-product material, production facility, or utilization facility within this Commonwealth unless he has complied with the Federal Atomic Energy Act of 1954 and amendments thereto and the rules and regulations promulgated by the United States Atomic Energy Commission.

### SECTION 10. INJUNCTION PROCEEDINGS.

Whenever, in the opinion of the Attorney General, any person is violating or is about to violate any of the provisions of this Act, or is violating or is about to violate any of the rules and regulations promulgated under this Act, the Attorney General may apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the violative act, and upon a showing that such person has engaged, or is about to engage in such activity, a restraining order or permanent or temporary injunction, or any other appropriate order may be granted.

**SB 84:** AN ACT relating to public records.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. (1) All written or printed books, documents, papers, pictures, negatives, recording maps, plans, or drawings that are the property of the state or a political subdivision thereof, and in which any entry has been made or is required to be made by law, or which any officer or employe of the state or a political subdivision thereof has received or is required to receive for filing or recording are public records, and shall be subject to inspection as prescribed by this Act.

(2) Any record not made confidential by law shall be subject to inspection by any interested person at any reasonable time. A certified copy of such records shall be furnished by the custodian thereof, upon the payment of such reasonable fee as may be prescribed by law or administrative rule.

(3) Other records may be inspected by any person having sufficient reason therefor who gives notice to the custodian thereof accompanied by an affidavit setting forth the reasons for the inspection and the special circumstances that require disclosure of the records.

(4) Any person refused the right to inspect any public records may bring a mandatory injunction proceeding in Franklin Circuit Court. On determination that the plaintiff's request is in good faith and necessary, the court shall direct that the records be made available to him. The court's order may be appealed as any other court order.

Section 2. Any person who attempts in any manner to delay or hinder an entitled person from examining public records shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned for not less than ten days or more than thirty days.

**SB 192:** AN ACT relating to extradition of fugitives from justice.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. This act may be cited as the Uniform Criminal Extradition Act.

Section 2. Where appearing in this act, the term "Governor" includes any person performing the functions of Governor by authority of the law of this state. The term "Executive Authority" includes the

Governor, and any person performing the functions of Governor in a state other than this state, and the term "State," referring to a state other than this state, includes any other state or territory, or organized or unorganized, of the United States of America.

Section 3. Subject to the provisions of this act, the provisions of the Constitution of the United States controlling, and any and all acts of Congress enacted in pursuance thereof, it is the duty of the Governor of this state to have arrested and delivered up to the Executive Authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

Section 4. No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing alleging, except in cases arising under Section 7, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the Executive Authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the Executive Authority making the demand.

Section 5. When a demand shall be made upon the Governor of this state by the Executive Authority of another state for the surrender of a person so charged with crime, the Governor may call upon the Attorney General or any other officer of this state to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

Section 6. When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the Governor of this state may agree with the Executive Authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

The Governor of this state may also surrender on demand of the Executive Authority of any other state any person in this state who is charged in the manner provided in Section 4 of this act with having violated the laws of the state whose Executive Authority is making the demand, even though such person left the demanding state involuntarily.

Section 7. The Governor of this state may also surrender, on demand of the Executive Authority of any other state, any person in this state charged in such other state in the manner provided in Section 4 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose Executive Authority is making the demand, and the provisions of this act not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

Section 8. If the Governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

Section 9. Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this act, to the duly authorized agent of the demanding state.

Section 10. Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

Section 11. No person arrested upon such warrant shall be delivered over to the agent whom the Executive Authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a circuit, county, or police court in this state, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the county attorney of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

Section 12. Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the Governor's warrant, in willful disobedience to the last section, shall be guilty of a misdemeanor and, on conviction, shall be fined not less than $100 nor more than $1,000 or imprisoned in the county jail not less than ten nor more than thirty days, or both.

Section 13. The officer or persons executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping.

The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping; provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the Executive Authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

Section 14. Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state and, except in cases arising under Section 7, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under Section 7, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the circuit judge, the judge of the county court or the police judge of a city in the county in which he was arrested who may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

Section 15. The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

Section 16. If from the examination before the judge it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under Section 7, that he has fled from justice, the judge must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the Executive Authority of the state having jurisdiction of the offense, unless the accused give bail as provided in the next section, or until he shall be legally discharged.

Section 17. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond for his surrender, to be arrested upon the warrant of the Governor of this state.

Section 18. If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant or bond, a judge may discharge him or may recommit him for a further period not to exceed sixty days, or a judge may again take bail for his appearance and surrender, as provided in Section 17, but within a period not to exceed sixty days after the date of such new bond.

Section 19. If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

Section 20. The Governor may in his discretion surrender upon demand of the Executive Authority of another state, any person found in this state, notwithstanding the fact that a criminal prosecution or charges under the laws of this state are pending against such person, or that such person has already been convicted in this state and is serving a sentence in any penal institution of this state. The Governor may condition the release of such prisoner to the demanding state upon such terms as he may stipulate, including the condition that the prisoner be returned to this state immediately after trial and before commencing the service of sentence, if any, in the demanding state: Providing, however, in no case shall surrender of such prisoner be construed as a complete relinquishment of jurisdiction by this state, but such prisoner shall forthwith be returned to the custody of this state at expense of the demanding state, immediately after trial in the demanding state, or the completion of sentence therein, as the case may be.

Section 21. The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the Governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the Governor, except as it may be involved in identifying the person held as the person charged with the crime.

Section 22. The Governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

Section 23. Whenever the Governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this state, from the Executive Authority of any other state, or from the chief justice or an associate justice of the Supreme Court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this state, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this state in which the offense was committed.

Section 24. (1) When the return to this state of a person charged with crime in this state is required, the Commonwealth's attorney or county attorney shall present to the Governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein at the time the application is made and certifying that, in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

(2) When the return to this state is required of a person who has been convicted of a crime in this state and escaped from confinement or broken the terms of his bail, probation or parole, the Commonwealth's attorney or county attorney of the county in which the offense was committed, the chairman of the parole board, or the warden of the institution or sheriff of the county, from which escape was made, shall present to the Governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, the state in which he is believed to be, including the location of the person therein at the time application is made.

(3) The application shall be verified by affidavit, shall be executed in triplicate and shall be accompanied by three certified copies of the indictment returned, or affidavit made before a judge or magistrate and warrant issued thereon, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The Commonwealth's attorney or county attorney, chairman of the parole board, warden or sheriff may also attach such further affidavits and other documents in triplicate as he shall deem proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, affidavit and warrant, or of the judgment of conviction or of the sentence shall be filed in the office of the Secretary of State to remain of record in that office. The other copies of all papers shall be forwarded with the Governor's requisition.

Section 25. (1) All legal costs incurred in apprehending and securing in this state fugitives wanted in other states shall be paid by the agent of the state demanding him before the agent is permitted to remove him or received him into custody.

(2) When a person charged with a felony in this state or with having been convicted of a felony here and escaping from confinement or breaking the terms of his bail, probation or parole is arrested in another state and waives extradition proceedings, the circuit judge or county judge of the county in which the felony was committed, upon motion and affidavit of the Commonwealth's attorney or county attorney containing the statements set forth in subsection (1) or subsection (2) of Section 24 of this act, may appoint an agent of this state to return the fugitive without benefit of any procedure incidental to extradition proceedings. Such agent shall receive from the State Treasury the same payment for his expenses as is provided for agents acting under requisition of the Governor. Claims for reimbursement of expenses under this subsection shall be accompanied by a certified copy of the verified application for appointment of the agent and the order of the court appointing, receipt of the county jailer showing delivery of the fugitive, and an order of court allowing the agent his expenses. If the agent is not given possession of the fugitive for reasons beyond the agent's control, he shall nevertheless be reimbursed as provided herein, if prior to his appointment as agent the fugitive had executed before a judge in accordance with law a written waiver stating that he consents to return to this state.

(3) When a person is to be returned to another state at the expense of this state, pursuant to an agreement of the Governor made under authority of Section 6 of this act, the Governor may, upon honoring the demand of the Executive Authority of such other state for surrender of such person, provide by Executive Order that the person designated as the agent of the demanding state shall be reimbursed by this state for his expenses in conveying the prisoner to the demanding state. Such agent shall receive from the State Treasury the same payment for his expenses as is provided for agents acting under requisition of the Governor of this state. Claims for reimbursement under this subsection shall be accompanied by a receipt from the jailer of the demanding state showing delivery of the fugitive.

Section 26. A person brought into this state by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil action arising out of the same facts as the criminal proceeding to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

Section 27. Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in sections 8 and 9 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any circuit, county or police court within this state a writing which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in Section 11.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of this state and thereafter filed by him in the office of the Secretary of State. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

Section 28. Nothing in this act contained shall be deemed to constitute a waiver by this state of its right, power or privilege to try such demanded person for crime committed within this state, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this state, nor shall any proceedings had under this act which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever.

Section 29. After a person has been brought back to this state by, or after waiver of extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

Section 30. Sections 440.070 and 440.080 of the Kentucky Revised Statutes are repealed.

**SB 169:** AN ACT establishing a Uniform Commercial Code.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

## ARTICLE 1. GENERAL PROVISIONS

### Part 1. Short Title; Construction, Application and Subject Matter of this Act

Section 1—101. *Short Title.* This Act shall be known and may be cited as Uniform Commercial Code.

Section 1—102. *Purposes; Rules of Construction; Variation by Agreement.* (1) This Act shall be liberally construed and applied to promote its underlying purposes and policies.

(2) Underlying purposes and policies of this Act are
   (a) to simplify, clarify and modernize the law governing commercial transactions;
   (b) to permit the continued expansion of commercial practices through custom, usage and agreement of the parties;
   (c) to make uniform the law among the various jurisdictions.

(3) The effect of provisions of this Act may be varied by agreement, except as otherwise provided in this Act and except that the obligations of good faith, diligence, reasonableness and care prescribed by this Act may not be disclaimed by agreement but the parties may by agreement determine the standards by which the performance of such obligations is to be measured if such standards are not manifestly unreasonable.

(4) The presence in certain provisions of this Act of the words "unless otherwise agreed" or words of similar import does not imply that the effect of other provisions may not be varied by agreement under subsection (3).

(5) In this Act unless the context otherwise requires
   (a) words in the singular number include the plural, and in the plural include the singular;
   (b) words of the masculine gender include the feminine and the neuter, and when the sense so indicates words of the neuter gender may refer to any gender.

Section 1—103. *Supplementary General Principles of Law Applicable.* Unless displaced by the particular provisions of this Act, the principles of law and equity, including the law merchant and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause shall supplement its provisions.

Section 1—104. *Construction Against Implicit Repeal.* This Act being a general act intended as a unified coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

Section 1—105. *Territorial Application of the Act; Parties' Power to Choose Applicable Law.* (1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties. Failing such agreement this Act applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of this Act specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of the laws rules) so specified:

Rights of creditors against sold goods. Section 2—402.

Applicability of the Article on Bank Deposits and Collections. Section 4—102.

Bulk Transfers subject to the Article on Bulk Transfers. Section 6—102.

Applicability of the Article on Investment Securities. Section 8—106.

Policy and scope of the Article on Secured Transactions. Sections 9—102 and 9—103.

Section 1—106. *Remedies to Be Liberally Administered.* (1) The remedies provided by this Act shall be liberally administered to the end that the aggrieved party may be put in as good a position as if the other party had fully performed but neither consequential or special nor penal damages may be had except as specifically provided in this Act or by other rule of law.

(2) Any right or obligation declared by this Act is enforceable by action unless the provision declaring it specifies a different and limited effect.

Section 1—107. *Waiver or Renunciation of Claim or Right After Breach.* Any claim or right arising out of an alleged breach can be discharged in whole or in part without consideration by a written waiver or renunciation signed and delivered by the aggrieved party.

Section 1—108. *Severability.* If any provision or clause of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Section 1—109. *Section Captions.* Section captions are parts of this Act.

## Part 2. General Definitions and Principles of Interpretation

Section 1—201. *General Definitions.* Subject to additional definitions contained in the subsequent Articles of this Act which are applicable to specific Articles or Parts thereof, and unless the context otherwise requires, in this Act:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, set-off, suit in equity and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this Act (Sections 1—205 and 2—208). Whether an agreement has legal consequences is determined by the provisions of this Act, if applicable; otherwise by the law of contracts (Section 1—103). (Compare "Contract".)

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its non-existence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NON-

NEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous". Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligations which results from the parties' agreement as affected by this Act and any other applicable rules of law. (Compare "Agreement".)

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper or securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this Act to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" means a person who is in possession of a document of title or an instrument or an investment security drawn, issued or indorsed to him or to his order or to bearer or in blank.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as

they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency.

(25) A person has "notice" of a fact when

(a) he has actual knowledge of it; or

(b) he has received a notice or notification of it; or

(c) from all the facts and circumstances known to him at the time in question he has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this Act.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when

(a) it comes to his attention; or

(b) it is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his attention if the organization had exercised due diligence.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party", as distinct from "third party", means a person who has engaged in a transaction or made an agreement within this Act.

(30) "Person" includes an individual or an organization (See Section 1—102).

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or re-issue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (Section 2—401) is limited in effect to a reservation of a "security interest". The term also includes any interest of a buyer of accounts, chattel paper, or contract rights which is subject to Article 9. The special property interest of a buyer of goods on identification of such goods to a contract for sale under Section 2—401 is not a "security interest", but a buyer may also acquire a "security interest" by complying with Article 9. Unless a lease or consignment is intended as security, reservation of title thereunder is not a "security interest" but a consignment is in any event subject to the provisions on consignment sales (Section 2—326). Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature or indorsement means one made without actual, implied or apparent authority and includes a forgery.

(44) "Value". Except as otherwise provided wtih respect to negotiable instruments and bank collections (Sections 3—303, 4—208 and 4—209) a person gives "value" for rights if he acquires them

(a) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a chargeback is provided for in the event of difficulties in collection; or

(b) as security for or in total or partial satisfaction of a pre-existing claim; or

(c) by accepting delivery pursuant to a pre-existing contract for purchase; or

(d) generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting or any other intentional reduction to tangible form.

Section 1—202. *Prima Facie Evidence by Third Party Documents.* A document in due form purporting to be a bill of lading, policy or certificate of insurance, official weigher's or inspector's certificate, consular invoice, or any other document authorized or required by the contract to be issued by a third party shall be prima facie evidence of its own authenticity and genuineness and of the facts stated in the document by the third party.

Section 1—203. *Obligation of Good Faith.* Every contract or duty within this Act imposes an obligation of good faith in its performance or enforcement.

Section 1—204. *Time; Reasonable Time; "Seasonably".* (1) Whenever this Act requires any action to be taken within a reasonable time, any time which is not manifestly unreasonable may be fixed by agreement.

(2) What is a reasonable time for taking any action depends on the nature, purpose and circumstances of such action.

(3) An action is taken "Seasonably" when it is taken at or within the time agreed or if no time is agreed at or within a reasonable time.

Section 1—205. *Course of Dealing and Usage of Trade.* (1) A course of dealing is a sequence of previous conduct between the parties to a particular transaction which is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.

(2) A usage of trade is any practice or method of dealing having such regularity of observance in a place, vocation or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage are to be proved as facts. If it is established that such a usage is embodied in a written trade code or similar writing the interpretation of the writing is for the court.

(3) A course of dealing between parties and any usage of trade in the vocation or trade in which they are engaged or of which they

are or should be aware give particular meaning to and supplement or qualify terms of an agreement.

(4) The express terms of an agreement and an applicable course of dealing or usage of trade shall be construed wherever reasonable as consistent with each other; but when such construction is unreasonable express terms control both course of dealing and usage of trade and course of dealing controls usage of trade.

(5) An applicable usage of trade in the place where any part of performance is to occur shall be used in interpreting the agreement as to that part of the performance.

(6) Evidence of a relevant usage of trade offered by one party is not admissible unless and until he has given the other party such notice as the court finds sufficient to prevent unfair surprise to the latter.

Section 1—206. *Statue of Frauds for Kinds of Personal Property Not Otherwise Covered.* (1) Except in the cases described in subsection (2) of this section a contract for the sale of personal property is not enforceable by way of action or defense beyond five thousand dollars in amount or value or remedy unless there is some writing which indicates that a contract for sale has been made between the parties at a defined or stated price, reasonably identifies the subject matter, and is signed by the party against whom enforcement is sought or by his authorized agent.

(2) Subsection (1) of this section does not apply to contracts for the sale of goods (Section 2—201) nor of securities (Section 8—319) nor to security agreements (Section 9—203).

Section 1—207. *Performance or Acceptance Under Reservation of Rights.* A party who with explicit reservation of rights performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as "without prejudice", "under protest" or the like are sufficient.

Section 1—208. *Option to Accelerate at Will.* A term providing that one party or his successor in interest may accelerate payment or performance or require collateral or additional collateral "at will" or "when he deems himself insecure" or in words of similar import shall be construed to mean that he shall have power to do so only if he in good faith believes that the prospect of payment or performance is impaired. The burden of establishing lack of good faith is on the party against whom the power has been exercised.

## ARTICLE 2. SALES

### Part 1. Short Title, General Construction and Subject Matter

Section 2—101. *Short Title.* This Article shall be known and may be cited as Uniform Commercial Code—Sales.

Section 2—102. *Scope; Certain Security and Other Transactions Excluded From This Article.* Unless the context otherwise requires, this Article applies to transactions in goods; it does not apply to any transaction which although in the form of an unconditional contract to sell or present sale is intended to operate only as a security transaction nor does this Article impair or repeal any statute regulating sales to consumers, farmers or other specified classes of buyers.

Section 2—103. *Definitions and Index of Definitions.* (1) In this Article unless the context otherwise requires

(a) "Buyer" means a person who buys or contracts to buy goods.

(b) "Good faith" in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

(c) "Receipt" of goods means taking physical possession of them.

(d) "Seller" means a person who sells or contracts to sell goods.

(2) Other definitions applying to this Article or to specified Parts thereof, and the sections in which they appear are:

"Acceptance". Section 2—606.
"Banker's credit". Section 2—325.
"Between merchants". Section 2—104.
"Cancellation". Section 2—106(4).
"Commercial unit". Section 2—105.
"Confirmed credit". Section 2—325.
"Conforming to contract". Section 2—106.
"Contract for sale". Section 2—106.
"Cover". Section 2—712.
"Entrusting". Section 2—403.
"Financing agency". Section 2—104.
"Future goods". Section 2—105.
"Goods". Section 2—105.
"Identification". Section 2—501.
"Installment contract". Section 2—612.
"Letter of credit". Section 2—325.
"Lot". Section 2—105.
"Merchant". Section 2—104.
"Overseas". Section 2—323.
"Person in position of seller". Section 2—707.
"Present sale". Section 2—106.
"Sale." Section 2—106.
"Sale on approval". Section 2—326.
"Sale or return". Section 2—326.
"Termination". Section 2—106.

(3) The following definitions in other Articles apply to this Article:

"Check". Section 3—104.
"Consignee". Section 7—102.
"Consignor". Section 7—102.
"Consumer goods". Section 9—109.
"Dishonor". Section 3—507.
"Draft". Section 3—104.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Section 2—104. *Definitions. "Merchant"; "Between Merchants"; "Financing Agency".* (1) "Merchant" means a person who deals in goods of the kind or otherwise by his occupation holds himself out as having knowledge or skill peculiar to the practices or goods involved in the transaction or to whom such knowledge or skill may be attributed by his employment of an agent or broker or other intermediary who by his occupation holds himself out as having such knowledge or skill.

(2) "Financing agency" means a bank, finance company or other person who in the ordinary course of business makes advances against goods or documents of title or who by arrangement with either the seller or the buyer intervenes in ordinary course to make or collect payment due or claimed under the contract for sale, as by purchasing or paying the seller's draft or making advances against it or by merely taking it for collection whether or not documents of title accompany the draft. "Financing agency" includes also a bank or other person who similarly intervenes between persons who are in the position of seller and buyer in respect to the goods (Section 2—707).

(3) "Between merchants" means in any transaction with respect to which both parties are chargeable with the knowledge or skill of merchants.

Section 2—105. *Definitions: Transferability; "Goods"; "Future" Goods; "Lot"; "Commercial Unit".* (1) "Goods" means all things (including specially manufactured goods) which are movable at the time of identification to the contract for sale other than the money in which the price is to be paid, investment securities (Article 8) and things in action. "Goods" also includes the unborn young of animals and growing crops and other identified things attached to realty as described in the section on goods to be severed from realty (Section 2—107).

(2) Goods must be both existing and identified before any interest in them can pass. Goods which are not both existing and identified are "future" goods. A purported present sale of future goods or of any interest therein operates as a contract to sell.

(3) There may be a sale of a part interest in existing identified goods.

(4) An undivided share in an identified bulk of fungible goods is sufficiently identified to be sold although the quantity of the bulk is not determined. Any agreed proportion of such a bulk or any quantity thereof agreed upon by number, weight or other measure may to the extent of the seller's interest in the bulk be sold to the buyer who then becomes an owner in common.

(5) "Lot" means a parcel or a single article which is the subject matter of a separate sale or delivery, whether or not it is sufficient to perform the contract.

(6) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of sale and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article (as a machine) or a set of articles (as a suite of furniture or an assortment of sizes) or a quantity (as a bale, gross, or carload) or any other unit treated in use or in the relevant market as a single whole.

Section 2–106. *Definitions. "Contract"; "Agreement"; "Contract for Sale"; "Sale"; "Present Sale"; "Conforming" to Contract; "Termination"; "Cancellation".* (1) In this article unless the context otherwise requires "contract" and "agreement" are limited to those relating to the present or future sale of goods. "Contract for sale" includes both a present sale of goods and a contract to sell goods at a future time. A "sale" consists in the passing of title from the seller to the buyer for a price (Section 2–401). A "present sale" means a sale which is accomplished by the making of the contract.

(2) Goods or conduct including any part of a performance are "conforming" or conform to the contract when they are in accordance with the obligations under the contract.

(3) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the contract otherwise than for its breach. On "termination" all obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

(4) "Cancellation" occurs when either party puts an end to the contract for breach by the other and its effect is the same as that of "termination" except that the cancelling party also retains any remedy for breach of the whole contract or any unperformed balance.

Section 2–107. *Goods to Be Severed From Realty: Recording.* (1) A contract for the sale of timber, minerals or the like or a structure or its materials to be removed from realty is a contract for the sale of goods within this Article if they are to be severed by the seller but until severance a purported present sale thereof which is not effective as a transfer of an interest in land is effective only as a contract to sell.

(2) A contract for the sale apart from the land of growing crops or other things attached to realty and capable of severance without material harm thereto but not described in subsection (1) is a contract for the sale of goods within this Article whether the subject matter is to be severed by the buyer or by the seller even though it forms part of the realty at the time of contracting, and the parties can by identification effect a present sale before severance.

(3) The provisions of this section are subject to any third party rights provided by the law relating to realty records, and the contract for sale may be executed and recorded as a document transferring an interest in land and shall then constitute notice to third parties of the buyer's rights under the contract for sale.

Part 2. Form, Formation and Readjustment of Contract

Section 2—201. *Formal Requirements; Statute of Frauds.* (1) Except as otherwise provided in this section a contract for the sale of goods for the price of $500 or more is not enforceable by way of action or defense unless there is some writing sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by his authorized agent or broker. A writing is not insufficient because it omits or incorrectly states a term agreed upon but the contract is not enforceable under this paragraph beyond the quantity of goods shown in such writing.

(2) Between merchants if within a reasonable time a writing in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of subsection (1) against such party unless written notice of objection to its contents is given within ten days after it is received.

(3) A contract which does not satisfy the requirements of subsection (1) but which is valid in other respects is enforceable

(a) if the goods are to be specially manufactured for the buyer and are not suitable for sale to others in the ordinary course of the seller's business and the seller, before notice or repudiation is received and under circumstances which reasonably indicate that the goods are for the buyer, has made either a substantial beginning of their manufacture or commitments for their procurement; or

(b) if the party against whom enforcement is sought admits in his pleading, testimony or otherwise in court that a contract for sale was made, but the contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) with respect to goods for which payment has been made and accepted or which have been received and accepted (Section 2—606).

Section 2–202. *Final Written Expression: Parol or Extrinsic Evidence.* Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented

(a) by course of dealing or usage of trade (Section 1–205) or by course of performance (Section 2–208); and

(b) by evidence of consistent additional terms unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement.

Section 2–203. *Seals Inoperative.* The affixing of a seal to a writing evidencing a contract for sale or an offer to buy or sell goods does not constitute the writing a sealed instrument and the law with respect to sealed instruments does not apply to such a contract or offer.

Section 2–204. *Formation in General.* (1) A contract for sale of goods may be made in any manner sufficient to show agreement, including conduct by both parties which recognizes the existence of such a contract.

(2) An agreement sufficient to constitute a contract for sale may be found even though the moment of its making is undetermined.

(3) Even though one or more terms are left open a contract for sale does not fail for indefiniteness if the parties have intended to make a contract and there is a reasonably certain basis for giving an appropriate remedy.

Section 2–205. *Firm Offers.* An offer by a merchant to buy or sell goods in a signed writing which by its terms gives assurance that it will be held open is not revocable, for lack of consideration, during the time stated or if no time is stated for a reasonable time, but in no event may such period of irrevocability exceed three months; but any such term of assurance on a form supplied by the offeree must be separately signed by the offeror.

Section 2–206. *Offer and Acceptance in Formation of Contract.* (1) Unless otherwise unambiguously indicated by the language or circumstances

(a) an offer to make a contract shall be construed as inviting acceptance in any manner and by any medium reasonable in the circumstances;

(b) an order or other offer to buy goods for prompt or current shipment shall be construed as inviting acceptance either by a prompt promise to ship or by the prompt or current shipment of conforming or non-conforming goods, but such a shipment of non-conforming goods does not constitute an acceptance if the seller seasonably notifies the buyer that the shipment is offered only as an accommodation to the buyer.

(2) Where the beginning of a requested performance is a reasonable mode of acceptance an offeror who is not notified of acceptance within a reasonable time may treat the offer as having lapsed before acceptance.

Section 2—207. *Additional Terms in Acceptance or Confirmation.* (1) A definite and seasonable expression of acceptance or a written confirmation which is sent within a reasonable time operates as an acceptance even though it states terms additional to or different from those offered or agreed upon, unless acceptance is expressly made conditional on assent to the additional or different terms.

(2) The additional terms are to be construed as proposals for addition to the contract. Between merchants such terms become part of the contract unless:

(a) the offer expressly limits acceptance to the terms of the offer;

(b) they materially alter it; or

(c) notification of objection to them has already been given or is given within a reasonable time after notice of them is received.

(3) Conduct by both parties which recognizes the existence of a contract is sufficient to establish a contract for sale although the writings of the parties do not otherwise establish a contract. In such case the terms of the particular contract consist of those terms on which the writings of the parties agree, together with any supplementary terms incorporated under any other provisions of this Act.

Section 2—208. *Course of Performance or Practical Construction.* (1) Where the contract for sale involves repeated occasions for performance by either party with knowledge of the nature of the performance and opportunity for objection to it by the other, any course of performance accepted or acquiesced in without objection shall be relevant to determine the meaning of the agreement.

(2) The express terms of the agreement and any such course of performance, as well as any course of dealing and usage of trade, shall be construed whenever reasonable as consistent with each other; but when such construction is unreasonable, express terms shall control course of performance and course of performance shall control both course of dealing and usage of trade (Section 1—205).

(3) Subject to the provisions of the next section on modification and waiver, such course of performance shall be relevant to show a waiver or modification of any term inconsistent with such course of performance.

Section 2—209. *Modification, Rescission and Waiver.* (1) An agreement modifying a contract within this Article needs no consideration to be binding.

(2) A signed agreement which excludes modification or rescission except by a signed writing cannot be otherwise modified or rescinded, but except as between merchants such a requirement on a form supplied by the merchant must be separately signed by the other party.

(3) The requirements of the statute of frauds section of this Article (Section 2—201) must be satisfied if the contract as modified is within its provisions.

(4) Although an attempt at modification or rescission does not satisfy the requirements of subsection (2) or (3) it can operate as a waiver.

(5) A party who has made a waiver affecting an executory portion of the contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waiver, unless the retraction would be unjust in view of a material change of position in reliance on the waiver.

Section 2—210. *Delegation of Performance; Assignment of Rights.* (1) A party may perform his duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having his original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) Unless otherwise agreed all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on him by his contract, or impair materially his chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of his entire obligation can be assigned despite agreement otherwise.

(3) Unless the circumstances indicate the contrary a prohibition of assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.

(4) An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by him to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

(5) The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to his rights against the assignor demand assurances from the assignee (Section 2—609).

## Part 3. General Obligation and Construction of Contract

Section 2—301. *General Obligations of Parties.* The obligation of the seller is to transfer and deliver and that of the buyer is to accept and pay in accordance with the contract.

Section 2—302. *Unconscionable Contract or Clause.* (1) If the court as a matter of law finds the contract or any clause of the contract to have been unconscionable at the time it was made the court may refuse to enforce the contract, or it may enforce the remainder of the contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(2) When it is claimed or appears to the court that the contract or any clause thereof may be unconscionable the parties shall be afforded a reasonable opportunity to present evidence as to its commercial setting, purpose and effect to aid the court in making the determination.

Section 2—303. *Allocation or Division of Risks.* Where this Article allocates a risk or a burden as between the parties "unless otherwise agreed", the agreement may not only shift the allocation but may also divide the risk or burden.

Section 2—304. *Price Payable in Money, Goods, Realty, or Otherwise.* (1) The price can be made payable in money or otherwise. If it is payable in whole or in part in goods each party is a seller of the goods which he is to transfer.

(2) Even though all or part of the price is payable in an interest in realty the transfer of the goods and the seller's obligations with reference to them are subject to this Article, but not the transfer of the interest in realty or the transferor's obligations in connection therewith.

Section 2—305. *Open Price Term.* (1) The parties if they so intend can conclude a contract for sale even though the price is not settled. In such a case the price is a reasonable price at the time for delivery if

(a) nothing is said as to price; or
(b) the price is left to be agreed by the parties and they fail to agree; or
(c) the price is to be fixed in terms of some agreed market or other standard as set or recorded by a third person or agency and it is not so set or recorded.

(2) A price to be fixed by the seller or by the buyer means a price for him to fix in good faith.

(3) When a price left to be fixed otherwise than by agreement of the parties fails to be fixed through fault of one party the other may at his option treat the contract as cancelled or himself fix a reasonable price.

(4) Where, however, the parties intend not to be bound unless the price be fixed or agreed and it is not fixed or agreed there is no contract. In such a case the buyer must return any goods already received or if unable so to do must pay their reasonable value at the time of delivery and the seller must return any portion of the price paid on account.

Section 2—306. *Output, Requirements and Exclusive Dealings.* (1) A term which measures the quantity by the output of the seller or the requirements of the buyer means such actual output or requirements as may occur in good faith, except that no quantity unreasonably disproportionate to any stated estimate or in the absence of a stated estimate to any normal or otherwise comparable prior output or requirements may be tendered or demanded.

(2) A lawful agreement by either the seller or the buyer for exclusive dealing in the kind of goods concerned imposes unless otherwise agreed an obligation by the seller to use best efforts to supply the goods and by the buyer to use best efforts to promote their sale.

Section 2—307. *Delivery in Single Lot or Several Lots.* Unless otherwise agreed all goods called for by a contract for sale must be tendered in a single delivery and payment is due only on such tender but where the circumstances give either party the right to make or demand delivery in lots the price if it can be apportioned may be demanded for each lot.

Section 2—308. *Absence of Specified Place for Delivery.* Unless otherwise agreed

(a) the place for delivery of goods is the seller's place of business or if he has none his residence; but

(b) in a contract for sale of identified goods which to the knowledge of the parties at the time of contracting are in some other place, that place is the place for their delivery; and

(c) documents of title may be delivered through customary banking channels.

Section 2—309. *Absence of Specific Time Provisions; Notice of Termination.* (1) The time for shipment or delivery or any other action under a contract if not provided in this Article or agreed upon shall be a reasonable time.

(2) Where the contract provides for successive performances but is indefinite in duration it is valid for a reasonable time but unless otherwise agreed may be terminated at any time by either party.

(3) Termination of a contract by one party except on the happening of an agreed event requires that reasonable notification be received by the other party and an agreement dispensing with notification is invalid if its operation would be unconscionable.

Section 2–310. *Open Time for Payment or Running of Credit; Authority to Ship Under Reservation.* Unless otherwise agreed

(a) payment is due at the time and place at which the buyer is to receive the goods even though the place of shipment is the place of delivery; and

(b) if the seller is authorized to send the goods he may ship them under reservation, and may tender the documents of title, but the buyer may inspect the goods after their arrival before payment is due unless such inspection is inconsistent with the terms of the contract (Section 2–513); and

(c) if delivery is authorized and made by way of documents of title otherwise than by subsection (b) then payment is due at the time and place at which the buyer is to receive the documents regardless of where the goods are to be received; and

(d) where the seller is required or authorized to ship the goods on credit the credit period runs from the time of shipment but post-dating the invoice or delaying its dispatch will correspondingly delay the starting of the credit period.

Section 2–311. *Options and Cooperation Respecting Performance.* (1) An agreement for sale which is otherwise sufficiently definite (subsection (3) of Section 2–204) to be a contract is not made invalid by the fact that it leaves particulars of performance to be specified by one of the parties. Any such specification must be made in good faith and within limits set by commercial reasonableness.

(2) Unless otherwise agreed specifications relating to assortment of the goods are at the buyer's option and except as otherwise provided in subsections (1)(c) and (3) of Section 2–319 specifications or arrangements relating to shipment are at the seller's option.

(3) Where such specification would materially affect the other party's performance but is not seasonably made or where one party's cooperation is necessary to the agreed performance of the other but is not seasonably forthcoming, the other party in addition to all other remedies

(a) is excused for any resulting delay in his own performance; and

(b) may also either proceed to perform in any reasonable manner or after the time for a material part of his own performance treat the failure to specify or to cooperate as a breach by failure to deliver or accept the goods.

Section 2–312. *Warranty of Title and Against Infringement; Buyer's Obligation Against Infringement.* (1) Subject to subsection (2) there is in a contract for sale a warranty by the seller that

(a) the title conveyed shall be good, and its transfer rightful; and

(b) the goods shall be delivered free from any security interest or other lien or encumbrance of which the buyer at the time of contracting has no knowledge.

(2) A warranty under subsection (1) will be excluded or modified only by specific language or by circumstances which give the buyer reason to know that the person selling does not claim title in himself or that he is purporting to sell only such right or title as he or a third person may have.

(3) Unless otherwise agreed a seller who is a merchant regularly dealing in goods of the kind warrants that the goods shall be delivered free of the rightful claim of any third person by way of infringement or the like but a buyer who furnishes specifications to the seller must hold the seller harmless against any such claim which arises out of compliance with the specifications.

Section 2—313. *Express Warranties by Affirmation, Promise, Description, Sample.* (1) Express warranties by the seller are created as follows:

(a) Any affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.

(b) Any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods shall conform to the description.

(c) Any sample or model which is made part of the basis of the bargain creates an express warranty that the whole of the goods shall conform to the sample or model.

(2) It is not necessary to the creation of an express warranty that the seller use formal words such as "warrant" or "guarantee" or that he have a specific intention to make a warranty, but an affirmation merely of the value of the goods or a statement purporting to be merely the seller's opinion or commendation of the goods does not create a warranty.

Section 2—314. *Implied Warranty: Merchantability; Usage of Trade.* (1) Unless excluded or modified (Section 2—316), a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind. Under this section the serving for value of food or drink to be consumed either on the premises or elsewhere is a sale.

(2) Goods to be merchantable must be at least such as

(a) pass without objection in the trade under the contract description; and

(b) in the case of fungible goods, are of fair average quality within the description; and

(c) are fit for the ordinary purposes for which such goods are used; and

(d) run, within the variations permitted by the agreement, of even kind, quality and quantity within each unit and among all units involved; and

(e) are adequately contained, packaged, and labeled as the agreement may require; and

(f) conform to the promises or affirmations of fact made on the container or label if any.

(3) Unless excluded or modified (Section 2–316) other implied warranties may arise from course of dealing or usage of trade.

Section 2–315. *Implied Warranty: Fitness for Particular Purpose.* Where the seller at the time of contracting has reason to know any particular purpose for which the goods are required and that the buyer is relying on the seller's skill or judgment to select or furnish suitable goods, there is unless excluded or modified under the next section an implied warranty that the goods shall be fit for such purpose.

Section 2–316. *Exclusion or Modification of Warranties.* (1) Words or conduct relevant to the creation of an express warranty and words or conduct tending to negate or limit warranty shall be construed wherever reasonable as consistent with each other; but subject to the provisions of this Article on parol or extrinsic evidence (Section 2–202) negation or limitation is inoperative to the extent that such construction is unreasonable.

(2) Subject to subsection (3), to exclude or modify the implied warranty of merchantability or any part of it the language must mention merchantability and in case of a writing must be conspicuous, and to exclude or modify any implied warranty of fitness the exclusion must be by a writing and conspicuous. Language to exclude all implied warranties of fitness is sufficient if it states, for example, that "There are no warranties which extend beyond the description on the face hereof."

(3) Notwithstanding subsection (2)

(a) unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like "as is", "with all faults" or other language which in common understanding calls the buyer's attention to the exclusion of warranties and makes plain that there is no implied warranty; and

(b) when the buyer before entering into the contract has examined the goods or the sample or model as fully as he desired or has refused to examine the goods there is no implied warranty with regard to defects which an examination ought in the circumstances to have revealed to him; and

(c) an implied warranty can also be excluded or modified by course of dealing or course of performance or usage of trade.

(4) Remedies for breach of warranty can be limited in accordance with the provisions of this Article on liquidation or limitation of damages and on contractual modification of remedy (Sections 2–718 and 2–719).

Section 2–317. *Cumulation and Conflict of Warranties Express or Implied.* Warranties whether express or implied shall be construed as consistent with each other and as cumulative, but if such construction is unreasonable the intention of the parties shall determine which warranty is dominant. In ascertaining that intention the following rules apply:

(a) Exact or technical specifications displace an inconsistent sample or model or general language of description.

(b) A sample from an existing bulk displaces inconsistent general lanuguage of description.

(c) Express warranties displace inconsistent implied warranties other than an implied warranty of fitness for a particular purpose.

Section 2–318. *Third Party Beneficiaries of Warranties Express or Implied.* A seller's warranty whether express or implied extends to any natural person who is in the family or household of his buyer or who is a guest in his home if it is reasonable to expect that such person may use, consume or be affected by the goods and who is injured in person by breach of the warranty. A seller may not exclude or limit the operation of this section.

Section 2–319. *F.O.B. and F.A.S. Terms.* (1) Unless otherwise agreed the F.O.B. (which means "free on board") at a named place, even though used only in connection with the stated price, is a delivery term under which

(a) when the term is F.O.B. the place of shipment, the seller must at that place ship the goods in the manner provided in this Article (Section 2–504) and bear the expense and risk of putting them into the possession of the carrier; or

(b) when the term is F.O.B. the place of destination, the seller must at his own expense and risk transport the goods to that place and there tender delivery of them in the manner provided in this Article (Section 2–503);

(c) when under either (a) or (b) the term is also F.O.B. vessel, car or other vehicle, the seller must in addition at his own expense and risk load the goods on board. If the term is F.O.B. vessel the buyer must name the vessel and in an appropriate case the seller must comply with the provisions of this Article on the form of bill of lading (Section 2–323).

(2) Unless otherwise agreed the term F.A.S. vessel (which means "free alongside") at a named port, even though used only in connection with the stated price, is a delivery term under which the seller must

(a) at his own expense and risk deliver the goods alongside the vessel in the manner usual in that port or on a dock designated and provided by the buyer; and

(b) obtain and tender a receipt for the goods in exchange for which the carrier is under a duty to issue a bill of lading.

(3) Unless otherwise agreed in any case falling within subsection (1)(a) or (c) or subsection (2) the buyer must seasonably give any needed instructions for making delivery, including when the term is F.A.S. or F.O.B. the loading berth of the vessel and in an appropriate case its name and sailing date. The seller may treat the failure of needed instructions as a failure of cooperation under this Article (Section 2–311). He may also at his option move the goods in any reasonable manner preparatory to delivery or shipment.

(4) Under the term F.O.B. vessel or F.A.S. unless otherwise agreed the buyer must make payment against tender of the required documents and the seller may not tender nor the buyer demand delivery of the goods in substitution for the documents.

Section 2–320. *C.I.F. & C. and F. Terms.* (1) The term C.I.F. means that the price includes in a lump sum the cost of the goods and the insurance and freight to the named destination. The term C. & F. or C.F. means that the price so includes cost and freight to the named destination.

(2) Unless otherwise agreed and even though used only in connection with the stated price and destination, the term C.I.F. destination or its equivalent requires the seller at his own expense and risk to

(a) put the goods into the possession of a carrier at the port for shipment and obtain a negotiable bill or bills of lading covering the entire transportation to the named destination; and

(b) load the goods and obtain a receipt from the carrier (which may be contained in the bill of lading) showing that the freight has been paid or provided for; and

(c) obtain a policy or certificate of insurance, including any war risk insurance, of a kind and on terms then current at the port of shipment in the usual amount, in the currency of the contract, shown to cover the same goods covered by the bill of lading and providing for payment of loss to the order of the buyer or for the account of whom it may concern; but the seller may add to the price the amount of the premium for any such war risk insurance; and

(d) prepare an invoice of the goods and procure any other documents required to effect shipment or to comply with the contract; and

(e) forward and tender with commercial promptness all the documents in due form and with any indorsement necessary to perfect the buyer's rights.

(3) Unless otherwise agreed the term C. & F. or its equivalent has the same effect and imposes upon the seller the same obligations and risks as a C.I.F. term except the obligation as to insurance.

(4) Under the term C.I.F. or C. & F. unless otherwise agreed the buyer must make payment against tender of the required documents and the seller may not tender nor the buyer demand delivery of the goods in substitution for the documents.

Section 2–321. *C.I.F. or C. & F.: "Net Landed Weights"; "Payment on Arrival"; Warranty of Condition on Arrival.* Under a contract containing a term C.I.F. or C. & F.

(1) Where the price is based on or is to be adjusted according to "net landed weights", "delivered weights", "out turn" quantity or quality or the like, unless otherwise agreed the seller must reasonably estimate the price. The payment due on tender of the documents called for by the contract is the amount so estimated, but after final adjustment of the price a settlement must be made with commercial promptness.

(2) An agreement described in subsection (1) or any warranty of quality or condition of the goods on arrival places upon the seller the risk of ordinary deterioration, shrinkage and the like in transportation but has no effect on the place or time of identification to the contract for sale or delivery or on the passing of the risk of loss.

(3) Unless otherwise agreed where the contract provides for payment on or after arrival of the goods the seller must before payment allow such preliminary inspection as is feasible; but if the goods are lost delivery of the documents and payment are due when the goods should have arrived.

Section 2–322. *Delivery "Ex-Ship".* (1) Unless otherwise agreed a term for delivery of goods "ex-ship" (which means from the carrying vessel) or in equivalent language is not restricted to a particular ship and requires delivery from a ship which has reached a place at the named port of destination where goods of the kind are usually discharged.

(2) Under such a term unless otherwise agreed

(a) the seller must discharge all liens arising out of the carriage and furnish the buyer with a direction which puts the carrier under a duty to deliver the goods; and

(b) the risk of loss does not pass to the buyer until the goods leave the ship's tackle or are otherwise properly unloaded.

Section 2–323. *Form of Bill of Lading Required in Overseas Shipment; "Overseas".* (1) Where the contract contemplates overseas shipment and contains a term C.I.F. or C. & F. or F.O.B. vessel, the seller unless otherwise agreed must obtain a negotiable bill of lading stating that the goods have been loaded on board or, in the case of a term C.I.F. or C. & F., received for shipment.

(2) Where in a case within subsection (1) a bill of lading has been issued in a set of parts, unless otherwise agreed if the documents are not to be sent from abroad the buyer may demand tender of the full set; otherwise only one part of the bill of lading need be tendered. Even if the agreement expressly requires a full set

(a) due tender of a single part is acceptable within the provisions of this Article on cure of improper delivery subsection (1) of Section 2–508; and

(b) even though the full set is demanded, if the documents are sent from abroad the person tendering an incomplete set may nevertheless require payment upon furnishing an indemnity which the buyer in good faith deems adequate.

(3) A shipment by water or by air or a contract contemplating such shipment is "overseas" insofar as by usage of trade or agreement it is subject to the commercial, financing or shipping practices characteristic of international deep water commerce.

Section 2–324. *"No Arrival, No Sale" Term.* Under a term "no arrival, no sale" or terms of like meaning, unless otherwise agreed,

(a) the seller must properly ship conforming goods and if they arrive by any means he must tender them on arrival but he assumes no obligation that the goods will arrive unless he has caused the non-arrival; and

(b) where without fault of the seller the goods are in part lost or have so deteriorated as no longer to conform to the contract or arrive after the contract time, the buyer may proceed as if there had been casualty to identified goods (Section 2–613).

Section 2–325. *"Letter of Credit" Term; "Confirmed Credit".* (1) Failure of the buyer seasonably to furnish an agreed letter of credit is a breach of the contract for sale.

(2) The delivery to seller of a proper letter of credit suspends the buyer's obligation to pay. If the letter of credit is dishonored, the seller may on seasonable notification to the buyer require payment directly from him.

(3) Unless otherwise agreed the term "letter of credit" or "banker's credit" in a contract for sale means an irrevocable credit issued by a financing agency of good repute and, where the shipment is overseas, of good international repute. The term "confirmed credit" means that the credit must also carry the direct obligation of such an agency which does business in the seller's financial market.

Section 2–326. *Sale on Approval and Sale or Return; Consignment Sales and Rights of Creditors.* (1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is

(a) a "sale on approval" if the goods are delivered primarily for use, and

(b) a "sale or return" if the goods are delivered primarily for resale.

(2) Except as provided in subsection (3), goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

(3) Where goods are delivered to a person for sale and such person maintains a place of business at which he deals in goods of the kind involved, under a name other than the name of the person making delivery, then with respect to claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum". However, this subsection is not applicable if the person making delivery

(a) complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign, or

(b) establishes that the person conducting the business is generally known by his creditors to be substantially engaged in selling the goods of others, or

(c) complies with the filing provisions of the Article on Secured Transactions (Article 9).

(4) Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this Article (Section 2–201) and as contradicting the sale aspect of the contract within the provisions of this Article on parol or extrinsic evidence (Section 2–202).

Section 2–327. *Special Incidents of Sale on Approval and Sale or Return.* (1) Under a sale on approval unless otherwise agreed

(a) although the goods are identified to the contract the risk of loss and the title do not pass to the buyer until acceptance; and

(b) use of the goods consistent with the purpose of trial is not acceptance but failure seasonably to notify the seller of election to return the goods is acceptance, and if the goods conform to the contract acceptance of any part is acceptance of the whole; and

(c) after due notification of election to return, the return is at the seller's risk and expense but a merchant buyer must follow any reasonable instructions.

(2) Under a sale or return unless otherwise agreed
  (a) the option to return extends to the whole or any commercial unit of the goods while in substantially their original condition, but must be exercised seasonably; and
  (b) the return is at the buyer's risk and expense.

Section 2—328. *Sale by Auction.* (1) In a sale by auction if goods are put up in lots each lot is the subject of a separate sale.

(2) A sale by auction is complete when the auctioneer so announces by the fall of the hammer or in other customary manner. Where a bid is made while the hammer is falling in acceptance of a prior bid the auctioneer may in his discretion reopen the bidding or declare the goods sold under the bid on which the hammer was falling.

(3) Such a sale is with reserve unless the goods are in explicit terms put up without reserve. In an auction with reserve the auctioneer may withdraw the goods at any time until he announces completion of the sale. In an auction without reserve, after the auctioneer calls for bids on an article or lot, that article or lot cannot be withdrawn unless no bid is made within a reasonable time. In either case a bidder may retract his bid until the auctioneer's announcement of completion of the sale, but a bidder's retraction does not revive any previous bid.

(4) If the auctioneer knowingly receives a bid on the seller's behalf or the seller makes or procures such a bid, and notice has not been given that liberty for such bidding is reserved, the buyer may at his option avoid the sale or take the goods at the price of the last good faith bid prior to the completion of the sale. This subsection shall not apply to any bid at a forced sale.

Part 4. Title, Creditors and Good Faith Purchasers

Section 2—401. *Passing of Title; Reservation for Security; Limited Application of This Section.* Each provision of this Article with regard to the rights, obligations and remedies of the seller, the buyer, purchasers or other third parties applies irrespective of title to the goods except where the provision refers to such title. Insofar as situations are not covered by the other provisions of this Article and matters concerning title become material the following rules apply:

(1) Title to goods cannot pass under a contract for sale prior to their identification to the contract (Section 2—501), and unless otherwise explicitly agreed the buyer acquires by their identification a special property as limited by this Act. Any retention or reservation by the seller of the title (property) in goods shipped or delivered to the buyer is limited in effect to a reservation of a security interest. Subject to these provisions and to the provisions of the Article on Secured

Transactions (Article 9), title to goods passes from the seller to the buyer in any manner and on any conditions explicitly agreed on by the parties.

(2) Unless otherwise explicitly agreed title passes to the buyer at the time and place at which the seller completes his performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place; and in particular and despite any reservation of a security interest by the bill of lading

(a) if the contract requires or authorizes the seller to send the goods to the buyer but does not require him to deliver them at destination, title passes to the buyer at the time and place of shipment; but

(b) if the contract requires delivery at destination, title passes on tender there.

(3) Unless otherwise explicitly agreed where delivery is to be made without moving the goods,

(a) if the seller is to deliver a document of title, title passes at the time when and the place where he delivers such documents; or

(b) if the goods are at the time of contracting already identified and no documents are to be delivered, title passes at the time and place of contracting.

(4) A rejection or other refusal by the buyer to receive or retain the goods, whether or not justified, or a justified revocation of acceptance revests title to the goods in the seller. Such revesting occurs by operation of law and is not a "sale".

Section 2—402. *Rights of Seller's Creditors Against Sold Goods.* (1) Except as provided in subsections (2) and (3), rights of unsecured creditors of the seller with respect to goods which have been identified to a contract for sale are subject to the buyer's rights to recover the goods under this Article (Sections 2—502 and 2—716).

(2) A creditor of the seller may treat a sale or an identification of goods to a contract for sale as void if as against him a retention of possession by the seller is fraudulent under any rule of law of the state where the goods are situated, except that retention of possession in good faith and current course of trade by a merchant-seller for a commercially reasonable time after a sale or identification is not fraudulent.

(3) Nothing in this Article shall be deemed to impair the rights of creditors of the seller

(a) under the provisions of the Article on Secured Transactions (Article 9); or

(b) where identification to the contract or delivery is made not in current course of trade but in satisfaction of or as security for a pre-existing claim for money, security or the like and is made under circumstances which under any rule of law of the state where the goods are situated would apart from this Article constitute the transaction a fraudulent transfer or voidable preference.

Section 2–403. *Power to Transfer; Good Faith Purchase of Goods; "Entrusting".* (1) A purchaser of goods acquires all title which his transferor had or had power to transfer except that a purchaser of a limited interest acquires rights only to the extent of the interest purchased. A person with voidable title has power to transfer a good title to a good faith purchaser for value. When goods have been delivered under a transaction of purchase the purchaser has such power even though

(a) the transferor was deceived as to the identity of the purchaser, or

(b) the delivery was in exchange for a check which is later dishonored, or

(c) it was agreed that the transaction was to be a "cash sale", or

(d) the delivery was procured through fraud punishable as larcenous under the criminal law.

(2) Any entrusting of possession of goods to a merchant who deals in goods of that kind gives him power to transfer all rights of the entruster to a buyer in ordinary course of business.

(3) "Entrusting" includes any delivery and any acquiescence in retention of possession regardless of any condition expressed between the parties to the delivery or acquiescence and regardless of whether the procurement of the entrusting or the possessor's disposition of the goods have been such as to be larcenous under the criminal law.

(4) The rights of other purchasers of goods and of lien creditors are governed by the Articles on Secured Transactions (Article 9), Bulk Transfers (Article 6) and Documents of Title (Article 7).

Part 5. Performance

Section 2–501. *Insurable Interest in Goods; Manner of Identification of Goods.* (1) The buyer obtains a special property and an insurable interest in goods by identification of existing goods as goods to which the contract refers even though the goods so identified are nonconforming and he has an option to return or reject them. Such identification can be made at any time and in any manner explicitly agreed to by the parties. In the absence of explicit agreement identification occurs

(a) when the contract is made if it is for the sale of goods already existing and identified;

(b) if the contract is for the sale of future goods other than those described in paragraph (c), when goods are shipped, marked or otherwise designated by the seller as goods to which the contract refers;

(c) when the crops are planted or otherwise become growing crops or the young are conceived if the contract is for the sale of unborn young to be born within twelve months after contracting or for the sale of crops to be harvested within twelve months or the next normal harvest season after contracting whichever is longer.

(2) The seller retains an insurable interest in goods so long as title to or any security interest in the goods remains in him and where the identification is by the seller alone he may until default or insolvency or notification to the buyer that the identification is final substitute other goods for those identified.

(3) Nothing in this section impairs any insurable interest recognized under any other statute or rule of law.

Section 2—502. *Buyer's Right to Goods on Seller's Insolvency.* (1) Subject to subsection (2) and even though the goods have not been shipped a buyer who has paid a part or all of the price of goods in which he has a special property under the provisions of the immediately preceding section may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if the seller becomes insolvent within ten days after receipt of the first installment on their price.

(2) If the identification creating his special property has been made by the buyer he acquires the right to recover the goods only if they conform to the contract for sale.

Section 2—503. *Manner of Seller's Tender of Delivery.* (1) Tender of delivery requires that the seller put and hold conforming goods at the buyer's disposition and give the buyer any notification reasonably necessary to enable him to take delivery. The manner, time and place for tender are determined by the agreement and this Article, and in particular

(a) tender must be at a reasonable hour, and if it is of goods they must be kept available for the period reasonably necessary to enable the buyer to take possession; but

(b) unless otherwise agreed the buyer must furnish facilities reasonably suited to the receipt of the goods.

(2) Where the case is within the next section respecting shipment tender requires that the seller comply with its provisions.

(3) Where the seller is required to deliver at a particular destination tender requires that he comply with subsection (1) and also in any appropriate case tender documents as described in subsections (4) and (5) of this section.

(4) Where goods are in the possession of a bailee and are to be delivered without being moved

(a) tender requires that the seller either tender a negotiable document of title covering such goods or procure acknowledgement by the bailee of the buyer's right to possession of the goods; but

(b) tender to the buyer of a non-negotiable document of title or of a written direction to the bailee to deliver is sufficient tender unless the buyer seasonably objects, and receipt by the bailee of notification of the buyer's rights fixes those rights as against the bailee and all third persons; but risk of loss of the goods and of any failure by the bailee to honor the non-negotiable document of title or to obey the direction remains on the seller until the buyer has had a reasonable time to present the document or direction, and a refusal by the bailee to honor the document or to obey the direction defeats the tender.

(5) Where the contract requires the seller to deliver documents

(a) he must tender all such documents in correct form, except as provided in this Article with respect to bills of lading in a set (subsection (2) of Section 2–323); and

(b) tender through customary banking channels is sufficient and dishonor of a draft accompanying the documents constitutes non-acceptance or rejection.

Section 2–504. *Shipment by Seller.* Where the seller is required or authorized to send the goods to the buyer and the contract does not require him to deliver them at a particular destination, then unless otherwise agreed he must

(a) put the goods in the possession of such a carrier and make such a contract for their transportation as may be reasonable having regard to the nature of the goods and other circumstances of the case; and

(b) obtain and promptly deliver or tender in due form any document necessary to enable the buyer to obtain possession of the goods or otherwise required by the agreement or by usage of trade; and

(c) promptly notify the buyer of the shipment.

Failure to notify the buyer under paragraph (c) or to make a proper contract under paragraph (a) is a ground for rejection only if material delay or loss ensues.

Section 2–505. *Seller's Shipment Under Reservation.* (1) Where the seller has identified goods to the contract by or before shipment;

(a) his procurement of a negotiable bill of lading to his own order or otherwise reserves in him a security interest in the goods. His procurement of the bill to the order of a financing agency or of the buyer indicates in addition only the seller's expectation of transferring that interest to the person named.

(b) a non-negotiable bill of lading to himself or his nominee reserves possession of the goods as security but except in a case of conditional delivery (subsection (2) of Section 2–507) a non-negotiable bill of lading naming the buyer as consignee reserves no security interest even though the seller retains possession of the bill of lading.

(2) When shipment by the seller with reservation of a security interest is in violation of the contract for sale it constitutes an improper contract for transportation within the preceding section but impairs neither the rights given to the buyer by shipment and identification of the goods to the contract nor the seller's powers as a holder of a negotiable document.

Section 2–506. *Rights of Financing Agency.* (1) A financing agency by paying or purchasing for value a draft which relates to a shipment of goods acquires to the extent of the payment or purchase and in addition to its own rights under the draft and any document of title securing it any rights of the shipper in the goods including the right to stop delivery and the shipper's right to have the draft honored by the buyer.

(2) The right to reimbursement of a financing agency which has in good faith honored or purchased the draft under commitment to or authority from the buyer is not impaired by subsequent discovery of defects with reference to any relevant document which was apparently regular on its face.

Section 2–507. *Effect of Seller's Tender; Delivery on Condition.* (1) Tender of delivery is a condition to the buyer's duty to accept the goods and, unless otherwise agreed, to his duty to pay for them. Tender entitles the seller to acceptance of the goods and to payment according to the contract.

(2) Where payment is due and demanded on the delivery to the buyer of goods or documents of title, his right as against the seller to retain or dispose of them is conditional upon his making the payment due.

Section 2–508. *Cure by Seller of Improper Tender or Delivery; Replacement.* (1) Where any tender or delivery by the seller is rejected because non-conforming and the time for performance has not yet expired, the seller may seasonably notify the buyer of his intention to cure and may then within the contract time make a conforming delivery.

(2) Where the buyer rejects a non-conforming tender which the seller had reasonable grounds to believe would be acceptable with or without money allowance the seller may if he seasonably notifies the buyer have a further reasonable time to substitute a conforming tender.

Section 2–509. *Risk of Loss in the Absence of Breach.* (1) Where the contract requires or authorizes the seller to ship the goods by carrier

(a) if it does not require him to deliver them at a particular destination, the risk of loss passes to the buyer when the goods are duly delivered to the carrier even though the shipment is under reservation (Section 2—505); but

(b) if it does require him to deliver them at a particular destination and the goods are there duly tendered while in the possession of the carrier, the risk of loss passes to the buyer when the goods are there duly so tendered as to enable the buyer to take delivery.

(2) Where the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the buyer

(a) on his receipt of a negotiable document of title covering the goods; or

(b) on acknowledgement by the bailee of the buyer's right to possession of the goods; or

(c) after his receipt of a non-negotiable document of title or other written direction to deliver, as provided in subsection (4)(b) of Section 2—503.

(3) In any case not within subsection (1) or (2), the risk of loss passes to the buyer on his receipt of the goods if the seller is a merchant; otherwise the risk passes to the buyer on tender of delivery.

(4) The provisions of this section are subject to contrary agreement of the parties and to the provisions of this Article on sale on approval (Section 2—327) and on effect of breach on risk of loss (Section 2—510).

Section 2—510. *Effect of Breach on Risk of Loss.* (1) Where a tender or delivery of goods so fails to conform to the contract as to give a right of rejection the risk of their loss remains on the seller until cure or acceptance.

(2) Where the buyer rightfully revokes acceptance he may to the extent of any deficiency in his effective insurance coverage treat the risk of loss as having rested on the seller from the beginning.

(3) Where the buyer as to conforming goods already identified to the contract for sale repudiates or is otherwise in breach before risk of their loss has passed to him, the seller may to the extent of any deficiency in his effective insurance coverage treat the risk of loss as resting on the buyer for a commercially reasonable time.

Section 2—511. *Tender of Payment by Buyer; Payment by Check.* (1) Unless otherwise agreed tender of payment is a condition to the seller's duty to tender and complete any delivery.

(2) Tender of payment is sufficient when made by any means or in any manner current in the ordinary course of business unless the seller demands payment in legal tender and gives any extension of time reasonably necessary to procure it.

(3) Subject to the provisions of this Act on the effect of an instrument on an obligation (Section 3—802), payment by check is conditional and is defeated as between the parties by dishonor of the check on due presentment.

Section 2—512. *Payment by Buyer Before Inspection.* (1) Where the contract requires payment before inspection non-conformity of the goods does not excuse the buyer from so making payment unless

(a) the non-conformity appears without inspection; or

(b) despite tender of the required documents the circumstances would justify injunction against honor under the provisions of this Act (Section 5—114).

(2) Payment pursuant to subsection (1) does not constitute an acceptance of goods or impair the buyer's right to inspect or any of his remedies.

Section 2—513. *Buyer's Right to Inspection of Goods.* (1) Unless otherwise agreed and subject to subsection (3), where goods are tendered or delivered or identified to the contract for sale, the buyer has a right before payment or acceptance to inspect them at any reasonable place and time and in any reasonable manner. When the seller is required or authorized to send the goods to the buyer, the inspection may be after their arrival.

(2) Expenses of inspection must be borne by the buyer but may be recovered from the seller if the goods do not conform and are rejected.

(3) Unless otherwise agreed and subject to the provisions of this Article on C.I.F. contracts (subsection (3) of Section 2—321), the buyer is not entitled to inspect the goods before payment of the price when the contract provides

(a) for delivery "C.O.D." or on other like terms; or

(b) for payment against documents of title, except where such payment is due only after the goods are to become available for inspection.

(4) A place or method of inspection fixed by the parties is presumed to be exclusive but unless otherwise expressly agreed it does not postpone identification or shift the place for delivery or for passing the risk of loss. If compliance becomes impossible, inspection shall be as provided in this section unless the place or method fixed was clearly intended as an indispensable condition failure of which avoids the contract.

Section 2—514. *When Documents Deliverable on Acceptance; When on Payment.* Unless otherwise agreed documents against which a draft is drawn are to be delivered to the drawee on acceptance of the draft if it is payable more than three days after presentment; otherwise, only on payment.

Section 2–515. *Preserving Evidence of Goods in Dispute.* In furtherance of the adjustment of any claim or dispute

(a) either party on reasonable notification to the other and for the purpose of ascertaining the facts and preserving evidence has the right to inspect, test and sample the goods including such of them as may be in the possession or control of the other; and

(b) the parties may agree to a third party inspection or survey to determine the conformity or condition of the goods and may agree that the findings shall be binding upon them in any subsequent litigation or adjustment.

Part 6. Breach, Repudiation and Excuse

Section 2–601. *Buyer's Rights on Improper Delivery.* Subject to the provisions of this Article on breach in installment contracts (Section 2–612) and unless otherwise agreed under the sections on contractual limitations of remedy (Sections 2–718 and 2–719), if the goods or the tender of delivery fail in any respect to conform to the contract, the buyer may

(a) reject the whole; or
(b) accept the whole; or
(c) accept any commercial unit or units and reject the rest.

Section 2–602. *Manner and Effect of Rightful Rejection.* (1) Rejection of goods must be within a reasonable time after their delivery or tender. It is ineffective unless the buyer seasonably notifies the seller.

(2) Subject to the provisions of the two following sections on rejected goods (Sections 2–603 and 2–604),

(a) after rejection any exercise of ownership by the buyer with respect to any commercial unit is wrongful as against the seller; and

(b) if the buyer has before rejection taken physical possession of goods in which he does not have a security interest under the provisions of this Article (subsection (3) of Section 2–711), he is under a duty after rejection to hold them with reasonable care at the seller's disposition for a time sufficient to permit the seller to remove them; but

(c) the buyer has no further obligations with regard to goods rightfully rejected.

(3) The seller's rights with respect to goods wrongfully rejected are governed by the provisions of this Article on Seller's remedies in general (Section 2–703).

Section 2–603. *Merchant Buyer's Duties as to Rightfully Rejected Goods.* (1) Subject to any security interest in the buyer (subsection (3) of Section 2–711), when the seller has no agent or place of business at the market of rejection a merchant buyer is under a duty after rejection of goods in his possession or control to follow any reasonable instructions received from the seller with respect to the goods and in the absence of such instructions to make reasonable efforts to sell them for the seller's account if they are perishable or threaten to decline in value speedily. Instructions are not reasonable if on demand indemnity for expenses is not forthcoming.

(2) When the buyer sells goods under subsection (1), he is entitled to reimbursement from the seller or out of the proceeds for reasonable expenses of caring for and selling them, and if the expenses include no selling commission then to such commission as is usual in the trade or if there is none to a reasonable sum not exceeding ten per cent on the gross proceeds.

(3) In complying with this section the buyer is held only to good faith and good faith conduct hereunder is neither acceptance nor conversion nor the basis of an action for damages.

Section 2—604. *Buyer's Options as to Salvage of Rightfully Rejected Goods.* Subject to the provisions of the immediately preceding section on perishables if the seller gives no instructions within a reasonable time after notification of rejection the buyer may store the rejected goods for the seller's account or reship them to him or resell them for the seller's account with reimbursement as provided in the preceding section. Such action is not acceptance or conversion.

Section 2—605. *Waiver of Buyer's Objections by Failure to Particularize.* (1) The buyer's failure to state in connection with rejection a particular defect which is ascertainable by reasonable inspection precludes him from relying on the unstated defect to justify rejection or to establish breach

(a) where the seller could have cured it if stated seasonably; or

(b) between merchants when the seller has after rejection made a request in writing for a full and final written statement of all defects on which the buyer proposes to rely.

(2) Payment against documents made without reservation of rights precludes recovery of the payment for defects apparent on the face of the documents.

Section 2—606. *What Constitutes Acceptance of Goods.* (1) Acceptance of goods occurs when the buyer

(a) after a reasonable opportunity to inspect the goods signifies to the seller that the goods are conforming or that he will take or retain them in spite of their non-conformity; or

(b) fails to make an effective rejection (subsection (1) of

Section 2—602), but such acceptance does not occur until the buyer has had a reasonable opportunity to inspect them; or

(c) does any act inconsistent with the seller's ownership; but if such act is wrongful as against the seller it is an acceptance only if ratified by him.

(2) Acceptance of a part of any commercial unit is acceptance of that entire unit.

Section 2—607. *Effect of Acceptance; Notice of Breach; Burden of Establishing Breach After Acceptance; Notice of Claim or Litigation to Person Answerable Over.* (1) The buyer must pay at the contract rate for any goods accepted.

(2) Acceptance of goods by the buyer precludes rejection of the goods accepted and if made with knowledge of a non-conformity cannot be revoked because of it unless the acceptance was on the reasonable assumption that the non-conformity would be seasonably cured but acceptance does not of itself impair any other remedy provided by this Article for non-conformity.

(3) Where a tender has been accepted

(a) the buyer must within a reasonable time after he discovers or should have discovered any breach notify the seller of breach or be barred from any remedy; and

(b) if the claim is one for infringement or the like (subsection (3) of Section 2—312) and the buyer is sued as a result of such a breach he must so notify the seller within a reasonable time after he receives notice of the litigation or be barred from any remedy over for liability established by the litigation.

(4) The burden is on the buyer to establish any breach with respect to the goods accepted.

(5) Where the buyer is sued for breach of a warranty or other obligation for which his seller is answerable over

(a) he may give his seller written notice of the litigation. If the notice states that the seller may come in and defend and that if the seller does not do so he will be bound in any action against him by his buyer by any determination of fact common to the two litigations, then unless the seller after seasonable receipt of the notice does come in and defend he is so bound;

(b) if the claim is one for infringement or the like (subsection (3) of Section 2—312) the original seller may demand in writing that his buyer turn over to him control of the litigation including settlement or else be barred from any remedy over and if he also agrees to bear all expense and to satisfy any adverse judgment, then unless the buyer after seasonable receipt of the demand does turn over control the buyer is so barred.

(6) The provisions of subsections (3), (4) and (5) apply to any obligation of a buyer to hold the seller harmless against infringement or the like (subsection (3) (b) of Section 2–312).

Section 2–608. *Revocation of Acceptance in Whole or in Part.* (1) The buyer may revoke his acceptance of a lot or commercial unit whose non-conformity substantially impairs its value to him if he has accepted it

(a) on the reasonable assumption that its non-conformity would be cured and it has not been seasonably cured; or

(b) without discovery of such non-conformity if his acceptance was reasonably induced either by the difficulty of discovery before acceptance or by the seller's assurances.

(2) Revocation of acceptance must occur within a reasonable time after the buyer discovers or should have discovered the ground for it and before any substantial change in condition of the goods which is not caused by their own defects. It is not effective until the buyer notifies the seller of it.

(3) A buyer who so revokes has the same rights and duties with regard to the goods involved as if he had rejected them.

Section 2–609. *Right to Adequate Assurance of Performance.* (1) A contract for sale imposes an obligation on each party that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party the other may in writing demand adequate assurance of due performance and until he receives such assurance may if commercially reasonable suspend any performance for which he has not already received the agreed return.

(2) Between merchants the reasonableness of grounds for insecurity and the adequacy of any assurance offered shall be determined according to commercial standards.

(3) Acceptance of any improper delivery or payment does not prejudice the aggrieved party's right to demand adequate assurances of future performance.

(4) After receipt of a justified demand failure to provide within a reasonable time not exceeding thirty days such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of the contract.

Section 2–610. *Anticipatory Repudiation.* When either party repudiates the contract with respect to a performance not yet due the loss of which will substantially impair the value of the contract to the other, the aggrieved party may

(a) for a commercially reasonable time await performance by the repudiating party; or
(b) resort to any remedy for breach (Section 2—703 or Section 2—711), even though he has notified the repudiating party that he would await the latter's performance and has urged retraction; and
(c) in either case suspend his own performance or proceed in accordance with the provisions of this Article on the seller's right to identify goods to the contract notwithstanding breach or to salvage unfinished goods (Section 2—704).

Section 2—611. *Retraction of Anticipatory Repudiation.* (1) Until the repudiating party's next performance is due he can retract his repudiation unless the aggrieved party has since the repudiation cancelled or materially changed his position or otherwise indicated that he considers the repudiation final.

(2) Retraction may be by any method which clearly indicates to the aggrieved party that the repudiating party intends to perform, but must include any assurance justifiably demanded under the provisions of this Article (Section 2—609).

(3) Retraction reinstates the repudiating party's rights under the contract with due excuse and allowance to the aggrieved party for any delay occasioned by the repudiation.

Section 2—612. *"Installment Contract"; Breach.* (1) An "installment contract" is one which requires or authorizes the delivery of goods in separate lots to be separately accepted, even though the contract contains a clause "each delivery is a separate contract" or its equivalent.

(2) The buyer may reject any installment which is non-conforming if the non-conformity substantially impairs the value of that installment and cannot be cured or if the non-conformity is a defect in the required documents; but if the non-conformity does not fall within subsection (3) and the seller gives adequate assurance of its cure the buyer must accept that installment.

(3) Whenever non-conformity or default with respect to one or more installments substantially impairs the value of the whole contract there is a breach of the whole. But the aggrieved party reinstates the contract if he accepts a non-conforming installment without seasonably notifying of cancellation or if he brings an action with respect only to past installments or demands performance as to future installments.

Section 2—613. *Casualty to Identified Goods.* Where the contract requires for its performance goods identified when the contract is made, and the goods suffer casualty without fault of either party before the risk of loss passes to the buyer, or in a proper case under a "no arrival, no sale" term (Section 2–324) then

(a) if the loss is total the contract is avoided; and

(b) if the loss is partial or the goods have so deteriorated as no longer to conform to the contract the buyer may nevertheless demand inspection and at his option either treat the contract as avoided or accept the goods with due allowance from the contract price for the deterioration or the deficiency in quantity but without further right against the seller.

Section 2–614. *Substituted Performance.* (1) Where without fault of either party the agreed berthing, loading, or unloading facilities fail or an agreed type of carrier becomes unavailable or the agreed manner of delivery otherwise becomes commercially impracticable but a commercially reasonable substitute is available, such substitute performance must be tendered and accepted.

(2) If the agreed means or manner of payment fails because of domestic or foreign governmental regulation, the seller may withhold or stop delivery unless the buyer provides a means or manner of payment which is commercially a substantial equivalent. If delivery has already been taken, payment by the means or in the manner provided by the regulation discharges the buyer's obligation unless the regulation is discriminatory, oppressive or predatory.

Section 2–615. *Excuse by Failure of Presupposed Conditions.* Except so far as a seller may have assumed a greater obligation and subject to the preceding section on substituted performance:

(a) Delay in delivery or non-delivery in whole or in part by a seller who complies with paragraphs (b) and (c) is not a breach of his duty under a contract for sale if performance as agreed has been made impracticable by the occurrence of a contingency the non-occurrence of which was a basic assumption on which the contract was made or by compliance in good faith with any applicable foreign or domestic governmental regulation or order whether or not it later proves to be invalid.

(b) Where the clauses mentioned in paragraph (a) affect only a part of the seller's capacity to perform, he must allocate production and deliveries among his customers but may at his option include regular customers not then under contract as well as his own requirements for further manufacture. He may so allocate in any manner which is fair and reasonable.

(c) The seller must notify the buyer seasonably that there will be delay or non-delivery and, when allocation is required under paragraph (b), of the estimated quota thus made available for the buyer.

Section 2–616. *Procedure on Notice Claiming Excuse.* (1) Where the buyer receives notification of a material or indefinite delay or an allocation justified under the preceding section he may by written notification to the seller as to any delivery concerned, and where the prospective deficiency substantially impairs the value of the whole contract under the provisions of this Article relating to breach of installment contracts (Section 2–612), then also as to the whole,

(a) terminate and thereby discharge any unexecuted portion of the contract; or

(b) modify the contract by agreeing to take his available quota in substitution.

(2) If after receipt of such notification from the seller the buyer fails so to modify the contract within a reasonable time not exceeding thirty days the contract lapses with respect to any deliveries affected.

(3) The provisions of this section may not be negated by agreement except in so far as the seller has assumed a greater obligation under the preceding section.

Part 7. Remedies

Section 2–701. *Remedies for Breach of Collateral Contracts Not Impaired.* Remedies for breach of any obligation or promise collateral or ancillary to a contract for sale are not impaired by the provisions of this Article.

Section 2–702. *Seller's Remedies on Discovery of Buyer's Insolvency.* (1) Where the seller discovers the buyer to be insolvent he may refuse delivery except for cash including payment for all goods theretofore delivered under the contract, and stop delivery under this Article (Section 2–705).

(2) Where the seller discovers that the buyer has received goods on credit while insolvent he may reclaim the goods upon demand made within ten days after the receipt, but if misrepresentation of solvency has been made to the particular seller in writing within three months before delivery the ten day limitation does not apply. Except as provided in this subsection the seller may not base a right to reclaim goods on the buyer's fraudulent or innocent misrepresentation of solvency or of intent to pay.

(3) The seller's right to reclaim under subsection (2) is subject to the rights of a buyer in ordinary course or other good faith purchaser or lien creditor under this Article (Section 2–403). Successful reclamation of goods excludes all other remedies with respect to them.

Section 2–703. *Seller's Remedies in General.* Where the buyer wrongfully rejects or revokes acceptance of goods or fails to make a payment due on or before delivery or repudiates with respect to a part or the whole, then with respect to any goods directly affected and, if the breach is of the whole contract (Section 2–612), then also with respect to the whole undelivered balance, the aggrieved seller may

(a) withhold delivery of such goods;
(b) stop delivery by any bailee as hereafter provided (Section 2–705);
(c) proceed under the next section respecting goods still unidentified to the contract;
(d) resell and recover damages as hereafter provided (Section 2–706);
(e) recover damages for non-acceptance (Section 2–708) or in a proper case the price (Section 2–709);
(f) cancel.

Section 2–704. *Seller's Right to Identify Goods to the Contract Notwithstanding Breach or to Salvage Unfinished Goods.* (1) An aggrieved seller under the preceding section may

(a) identify to the contract conforming goods not already identified if at the time he learned of the breach they are in his possession or control;
(b) treat as the subject of resale goods which have demonstrably been intended for the particular contract even though those goods are unfinished.

(2) Where the goods are unfinished an aggrieved seller may in the exercise of reasonable commercial judgment for the purposes of avoiding loss and of effective realization either complete the manufacture and wholly identify the goods to the contract or cease manufacture and resell for scrap or salvage value or proceed in any other reasonable manner.

Section 2–705. *Seller's Stoppage of Delivery in Transit or Otherwise.* (1) The seller may stop delivery of goods in the possession of a carrier or other bailee when he discovers the buyer to be insolvent (Section 2–702) and may stop delivery of carload, truckload, planeload or larger shipments of express or freight when the buyer repudiates or fails to make a payment due before delivery or if for any other reason the seller has a right to withhold or reclaim the goods.

(2) As against such buyer the seller may stop delivery until

(a) receipt of the goods by the buyer; or
(b) acknowledgement to the buyer by any bailee of the goods except a carrier that the bailee holds the goods for the buyer; or
(c) such acknowledgement to the buyer by a carrier by reshipment or as warehouseman; or
(d) negotiation to the buyer of any negotiable document of title covering the goods.

(3) (a) To stop delivery the seller must so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.

(b) After such notification the bailee must hold and deliver the goods according to the directions of the seller but the seller is liable to the bailee for any ensuing charges or damages.

(c) If a negotiable document of title has been issued for goods the bailee is not obliged to obey a notification to stop until surrender of the document.

(d) A carrier who has issued a non-negotiable bill of lading is not obliged to obey a notification to stop received from a person other than the consignor.

Section 2–706. *Seller's Resale Including Contract for Resale.* (1) Under the conditions stated in Section 2–703 on seller's remedies, the seller may resell the goods concerned or the undelivered balance thereof. Where the resale is made in good faith and in a commercially reasonable manner the seller may recover the difference between the resale price and the contract price together with any incidental damages allowed under the provisions of this Article (Section 2–710), but less expenses saved in consequence of the buyer's breach.

(2) Except as otherwise provided in subsection (3) or unless otherwise agreed resale may be at public or private sale including sale by way of one or more contracts to sell or of identification to an existing contract of the seller. Sale may be as a unit or in parcels and at any time and place and on any terms but every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable. The resale must be reasonably identified as referring to the broken contract, but it is not necessary that the goods be in existence or that any or all of them have been identified to the contract before the breach.

(3) Where the resale is at private sale the seller must give the buyer reasonable notification of his intention to resell.

(4) Where the resale is at public sale

(a) only identified goods can be sold except where there is a recognized market for a public sale of futures in goods of the kind; and

(b) it must be made at a usual place or market for public sale if one is reasonably available and except in the case of goods which are perishable or threaten to decline in value speedily the seller must give the buyer reasonable notice of the time and place of the resale; and

(c) if the goods are not to be within the view of those attending the sale the notification of sale must state the place where the goods are located and provide for their reasonable inspection by prospective bidders; and

(d) the seller may buy.

(5) A purchaser who buys in good faith at a resale takes the goods free of any rights of the original buyer even though the seller fails to comply with one or more of the requirements of this section.

(6) The seller is not accountable to the buyer for any profit made on any resale. A person in the position of a seller (Section 2–707) or a buyer who has rightfully rejected or justifiably revoked acceptance must account for any excess over the amount of his security interest, as hereinafter defined (subsection (3) of Section 2–711).

Section 2–707. *"Person in the Position of a Seller."* (1) A "person in the position of a seller" includes as against a principal an agent who has paid or become responsible for the price of goods on behalf of his principal or anyone who otherwise holds a security interest or other right in goods similar to that of a seller.

(2) A person in the position of a seller may as provided in this Article withhold or stop delivery (Section 2–705) and resell (Section 2–706) and recover incidental damages (Section 2–710).

Section 2–708. *Seller's Damages for Non-acceptance or Repudiation.* (1) Subject to subsection (2) and to the provisions of this Article with respect to proof of market price (Section 2–723), the measure of damages for non-acceptance or repudiation by the buyer is the difference between the market price at the time and place for tender and the unpaid contract price together with any incidental damages provided in this Article (Section 2–710), but less expenses saved in consequence of the buyer's breach.

(2) If the measure of damages provided in subsection (1) is inadequate to put the seller in as good a position as performance would have done then the measure of damages is the profit (including reasonable overhead) which the seller would have made from full performance by the buyer, together with any incidental damages provided in this Article (Section 2–710), due allowance for costs reasonably incurred and due credit for payments or proceeds of resale.

Section 2–709. *Action for the Price.*

(1) When the buyer fails to pay the price as it becomes due the seller may recover, together with any incidental damages under the next section, the price

(a) of goods accepted or of conforming goods lost or damaged within a commercially reasonable time after risk of their loss has passed to the buyer; and

(b) of goods identified to the contract if the seller is unable after reasonable effort to resell them at a reasonable price or the circumstances reasonably indicate that such effort will be unavailing.

(2) Where the seller sues for the price he must hold for the buyer any goods which have been identified to the contract and are still in his control except that if resale becomes possible he may resell them at any time prior to the collection of the judgment. The net proceeds of any such resale must be credited to the buyer and payment of the judgment entitles him to any goods not resold.

(3) After the buyer has wrongfully rejected or revoked acceptance of the goods or has failed to make a payment due or has repudiated (Section 2–610), a seller who is held not entitled to the price under this section shall nevertheless be awarded damages for non-acceptance under the preceding section.

Section 2–710. *Seller's Incidental Damages.*

Incidental damages to an aggrieved seller include any commercially reasonable charges, expenses or commissions incurred in stopping delivery, in the transportation, care and custody of goods after the buyer's breach, in connection with return or resale of the goods or otherwise resulting from the breach.

Section 2–711. *Buyer's Remedies in General; Buyer's Security Interest in Rejected Goods.* (1) Where the seller fails to make delivery or repudiates or the buyer rightfully rejects or justifiably revokes acceptance then with respect to any goods involved, and with respect to the whole if the breach goes to the whole contract (Section 2–612), the buyer may cancel and whether or not he has done so may in addition to recovering so much of the price as has been paid

(a) "cover" and have damages under the next section as to all the goods affected whether or not they have been identified to the contract; or

(b) recover damages for non-delivery as provided in this Article (Section 2–713).

(2) Where the seller fails to deliver or repudiates the buyer may also

(a) if the goods have been identified recover them as provided in this Article (Section 2–502); or

(b) in a proper case obtain specific performance or replevy the goods as provided in this Article (Section 2–716).

(3) On rightful rejection or justifiable revocation of acceptance a buyer has a security interest in goods in his possession or control for any payments made on their price and any expenses reasonably incurred in their inspection, receipt, transportation, care and custody and may hold such goods and resell them in like manner as an aggrieved seller (Section 2–706).

Section 2–712. *"Cover"; Buyer's Procurement of Substitute Goods.* (1) After a breach within the preceding section the buyer may "cover" by making in good faith and without unreasonable delay any reasonable purchase of or contract to purchase goods in substitution for those due from the seller.

(2) The buyer may recover from the seller as damages the difference between the cost of cover and the contract price together with any incidental or consequential damages as hereinafter defined (Section 2–715), but less expenses saved in consequence of the seller's breach.

(3) Failure of the buyer to effect cover within this section does not bar him from any other remedy.

Section 2–713. *Buyer's Damages for Non-Delivery or Repudiation.* (1) Subject to the provisions of this Article with respect to proof of market price (Section 2–723), the measure of damages for non-delivery or repudiation by the seller is the difference between the market price at the time when the buyer learned of the breach and the contract price together with any incidental and consequential damages provided in this Article (Section 2–715), but less expenses saved in consequence of the seller's breach.

(2) Market price is to be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.

Section 2–714. *Buyer's Damages for Breach in Regard to Accepted Goods.* (1) Where the buyer has accepted goods and given notification (subsection (3) of Section 2–607) he may recover as damages for any non-conformity of tender the loss resulting in the ordinary course of events from the seller's breach as determined in any manner which is reasonable.

(2) The measure of damages for breach of warranty is the difference at the time and place of acceptance between the value of the goods accepted and the value they would have had if they had been as warranted, unless special circumstances show proximate damages of a different amount.

(3) In a proper case any incidental and consequential damages under the next section may also be recovered.

Section 2–715. *Buyer's Incidental and Consequential Damages.* (1) Incidental damages resulting from the seller's breach includes expenses reasonably incurred in inspection, receipt, transportation and care and custody of goods rightfully rejected, any commercially reasonable charges, expenses or commissions in connection with effecting cover and any other reasonable expense incident to the delay or other breach.

(2) Consequential damages resulting from the seller's breach include

(a) any loss resulting from general or particular requirements and needs of which the seller at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and

(b) injury to person or property proximately resulting from any breach of warranty.

Section 2–716. *Buyer's Right to Specific Performance or Replevin.* (1) Specific performance may be decreed where the goods are unique or in other proper circumstances.

(2) The decree for specific performance may include such terms and conditions as to payment of the price, damages, or other relief as the court may deem just.

(3) The buyer has a right of replevin for goods identified to the contract if after reasonable effort he is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered.

Section 2–717. *Deduction of Damages From the Price.* The buyer on notifying the seller of his intention to do so may deduct all or any part of the damages resulting from any breach of the contract from any part of the price still due under the same contract.

Section 2–718. *Liquidation or Limitation of Damages; Deposits.* (1) Damages for breach by either party may be liquidated in the agreement but only at an amount which is reasonable in the light of the anticipated or actual harm caused by the breach, the difficulties of proof of loss, and the inconvenience or non-feasibility of otherwise obtaining an adequate remedy. A term fixing unreasonably large liquidated damages is void as a penalty.

(2) Where the seller justifiably withholds delivery of goods because of the buyer's breach, the buyer is entitled to restitution of any amount by which the sum of his payments exceeds

(a) the amount to which the seller is entitled by virtue of terms liquidating the seller's damages in accordance with subsection (1), or

(b) in the absence of such terms, twenty per cent of the value of the total performance for which the buyer is obligated under the contract or $500, whichever is smaller.

(3) The buyer's right to restitution under subsection (2) is subject to offset to the extent that the seller establishes

(a) a right to recover damages under the provisions of this Article other than subsection (1), and

(b) the amount or value of any benefits received by the buyer directly or indirectly by reason of the contract.

(4) Where a seller has received payment in goods their reasonable value or the proceeds of their resale shall be treated as payments for the purposes of subsection (2); but if the seller has notice of the

buyer's breach before reselling goods received in part performance, his resale is subject to the conditions laid down in this Article on resale by an aggrieved seller (Section 2–706).

Section 2–719. *Contractual Modification or Limitation of Remedy.* (1) Subject to the provisions of subsections (2) and (3) of this section and of the preceding section on liquidation and limitation of damages,

(a) the agreement may provide for remedies in addition to or in substitution for those provided in this Article and may limit or alter the measure of damages recoverable under this Article, as by limiting the buyer's remedies to return of the goods and repayment of the price or to repair and replacement of non-conforming goods or parts; and

(b) resort to a remedy as provided is optional unless the remedy is expressly agreed to be exclusive, in which case it is the sole remedy.

(2) Where circumstances cause an exclusive or limited remedy to fail of its essential purpose, remedy may be had as provided in this Act.

(3) Consequential damages may be limited or excluded unless the limitation or exclusion is unconscionable. Limitation of consequential damages for injury to the person in the case of consumer goods is prima facie unconscionable but limitation of damages where the loss is commercial is not.

Section 2–720. *Effect of "Cancellation" or "Rescission" on Claims for Antecedent Breach.* Unless the contrary intention clearly appears, expressions of "cancellation" or "rescission" of the contract or the like shall not be construed as a renunciation or discharge of any claim in damages for an antecedent breach.

Section 2–721. *Remedies for Fraud.* Remedies for material misrepresentation or fraud include all remedies available under this Article for non-fraudulent breach. Neither rescission or a claim for rescission of the contract for sale nor rejection or return of the goods shall bar or be deemed inconsistent with a claim for damages or other remedy.

Section 2–722. *Who Can Sue Third Parties for Injury to Goods.* Where a third party so deals with goods which have been identified to a contract for sale as to cause actionable injury to a party to that contract

(a) a right of action against the third party is in either party to the contract for sale who has title to or a security interest or a special property or an insurable interest in the goods; and if the goods have been destroyed or converted a right of action is also in the party who either bore the risk of loss under the contract for sale or has since the injury assumed that risk as against the other;

(b) if at the time of the injury the party plaintiff did not bear the risk of loss as against the other party to the contract for sale and there is no arrangement between them for disposition of the recovery, his suit or settlement is, subject to his own interest, as a fiduciary for the other party to the contract;

(c) either party may with the consent of the other sue for the benefit of whom it may concern.

Section 2–723. *Proof of Market Price: Time and Place.* (1) If an action based on anticipatory repudiation comes to trial before the time for performance with respect to some or all of the goods, any damages based on market price (Section 2–708 or Section 2–713) shall be determined according to the price of such goods prevailing at the time when the aggrieved party learned of the repudiation.

(2) If evidence of a price prevailing at the times or places described in this Article is not readily available the price prevailing within any reasonable time before or after the time described or at any other place which in commercial judgment or under usage of trade would serve as a reasonable substitute for the one described may be used, making any proper allowance for the cost of transporting the goods to or from such other place.

(3) Evidence of a relevant price prevailing at a time or place other than the one described in this Article offered by one party is not admissible unless and until he has given the other party such notice as the court finds sufficient to prevent unfair surprise.

Section 2–724. *Admissibility of Market Quotations.* Whenever the prevailing price or value of any goods regularly bought and sold in any established commodity market is in issue, reports in official publications or trade journals or in newspapers or periodicals of general circulation published as the reports of such market shall be admissible in evidence. The circumstances of the preparation of such a report may be shown to affect its weight but not its admissibility.

Section 2–725. *Statute of Limitations in Contracts for Sale.* (1) An action for breach of any contract for sale must be commenced within four years after the cause of action has accrued. By the original agreement the parties may reduce the period of limitation to not less than one year but may not extend it.

(2) A cause of action accrues when the breach occurs, regardless of the aggrieved party's lack of knowledge of the breach. A breach of warranty occurs when tender of delivery is made, except that where a warranty explicitly extends to future performance of the goods and discovery of the breach must await the time of such performance the

cause of action accrues when the breach is or should have been discovered.

(3) Where an action commenced within the time limited by subsection (1) is so terminated as to leave available a remedy by another action for the same breach such other action may be commenced after the expiration of the time limited and within six months after the termination of the first action unless the termination resulted from voluntary discontinuance or from dismissal for failure or neglect to prosecute.

(4) This section does not alter the law on tolling of the statute of limitations nor does it apply to causes of action which have accrued before this Act becomes effective.

## ARTICLE 3. COMMERCIAL PAPER

### Part 1. Short Title, Form and Interpretation

Section 3—101. *Short Title.* This Article shall be known and may be cited as Uniform Commercial Code—Commercial Paper.

Section 3—102. *Definitions and Index of Definitions.* (1) In this Article unless the context otherwise requires

(a) "Issue" means the first delivery of an instrument to a holder or a remitter.

(b) An "order" is a direction to pay and must be more than an authorization or request. It must identify the person to pay with reasonable certainty. It may be addressed to one or more such persons jointly or in the alternative but not in succession.

(c) A "promise" is an undertaking to pay and must be more than an acknowledgement of an obligation.

(d) "Secondary party" means a drawer or endorser.

(e) "Instrument" means a negotiable instrument.

(2) Other definitions applying to this Article and the sections in which they appear are:

"Acceptance". Section 3—410.
"Accommodation party". Section 3—415.
"Alteration". Section 3—407.
"Certificate of deposit". Section 3—104.
"Certification". Section 3—411.
"Check". Section 3—104.
"Definite time". Section 3—109.
"Dishonor". Section 3—507.
"Documentary Draft". Section 4—104.
"Draft". Section 3—104.
"Holder in due course". Section 3—302.
"Negotiation". Section 3—202.
"Note". Section 3—104.

"Notice of dishonor". Section 3—508.
"On demand". Section 3—108.
"Presentment". Section 3—504.
"Protest". Section 3—509.
"Restrictive Indorsement". Section 3—205.
"Signature". Section 3—401.

(3) The following definitions in other Articles apply to this Article:

"Account". Section 4—104.
"Banking Day". Section 4—104.
"Clearing house". Section 4—104.
"Collecting bank". Section 4—105.
"Customer". Section 4—104.
"Depositary Bank". Section 4—105.
"Documentary Draft". Section 4—104.
"Intermediary Bank". Section 4—105.
"Item". Section 4—104.
"Midnight deadline". Section 4—104.
"Payor bank". Section 4—105.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Section 3—103. *Limitations on Scope of Article.* (1) This Article does not apply to money, documents of title or investment securities.

(2) The provisions of this Article are subject to the provisions of the Article on Bank Deposits and Collections (Article 4) and Secured Transactions (Article 9).

Section 3—104. *Form of Negotiable Instruments; "Draft"; "Check"; "Certificate of Deposit"; "Note".* (1) Any writing to be a negotiable instrument within this Article must

(a) be signed by the maker or drawer; and
(b) contain an unconditional promise or order to pay a sum certain in money and no other promise, order, obligation or power given by the maker or drawer except as authorized by this Article; and
(c) be payable on demand or at a definite time; and
(d) be payable to order or to bearer.

(2) A writing which complies with the requirements of this section is

(a) a "draft" ("bill of exchange") if it is an order;
(b) a "check" if it is a draft drawn on a bank and payable on demand;
(c) a "certificate of deposit" if it is an acknowledgment by a bank of receipt of money with an engagement to repay it;

(d) a "note" if it is a promise other than a certificate of deposit.

(3) As used in other Articles of this Act, and as the context may require, the terms "draft", "check", "certificate of deposit" and "note" may refer to instruments which are not negotiable within this Article as well as to instruments which are so negotiable.

Section 3—105. *When Promise or Order Unconditional.* (1) A promise or order otherwise unconditional is not made conditional by the fact that the instrument

(a) is subject to implied or constructive conditions; or

(b) states its consideration, whether performed or promised, or the transaction which gave rise to the instrument, or that the promise or order is made or the instrument matures in accordance with or "as per" such transaction; or

(c) refers to or states that it arises out of a separate agreement; or

(d) states that it is drawn under a letter of credit; or

(e) states that it is secured, whether by mortgage, reservation of title or otherwise; or

(f) indicates a particular account to be debited or any other fund or source from which reimbursement is expected; or

(g) is limited to payment out of a particular fund or the proceeds of a particular source, if the instrument is issued by a government or governmental agency or unit; or

(h) is limited to payment out of the entire assets of a partnership, unincorporated association, trust or estate by or on behalf of which the instrument is issued.

(2) A promise or order is not unconditional if the instrument

(a) states that it is subject to or governed by any other agreement; or

(b) states that it is to be paid only out of a particular fund or source except as provided in this section.

Section 3—106. *Sum Certain.* (1) The sum payable is a sum certain even though it is to be paid

(a) with stated interest or by stated installments; or

(b) with stated different rates of interest before and after default or a specified date; or

(c) with a stated discount or addition if paid before or after the date fixed for payment; or

(d) with exchange or less exchange, whether at a fixed rate or at the current rate; or

(e) with costs of collection or an attorney's fee or both upon default.

(2) Nothing in this section shall validate any term which is otherwise illegal.

Section 3—107. *Money.* (1) An instrument is payable in money if the medium of exchange in which it is payable is money at the time the instrument is made. An instrument payable in "currency" or "current funds" is payable in money.

(2) A promise or order to pay a sum stated in a foreign currency is for a sum certain in money and, unless a different medium of payment is specified in the instrument, may be satisfied by payment of that number of dollars which the stated foreign currency will purchase at the buying sight rate for that currency on the day on which the instrument is payable or, if payable on demand, on the day of demand. If such an instrument specifies a foreign currency as the medium of payment the instrument is payable in that currency.

Section 3—108. *Payable on Demand.* Instruments payable on demand include those payable at sight or on presentation and those in which no time for payment is stated.

Section 3—109. *Definite Time.* (1) An instrument is payable at a definite time if by its terms it is payable

(a) on or before a stated date or at a fixed period after a stated date; or
(b) at a fixed period after sight; or
(c) at a definite time subject to any acceleration; or
(d) at a definite time subject to extension at the option of the holder, or to extension to a further definite time at the option of the maker or acceptor or automatically upon or after a specified act or event.

(2) An instrument which by its terms is otherwise payable only upon an act or event uncertain as to time of occurrence is not payable at a definite time even though the act or event has occurred.

Section 3—110. *Payable to Order.* (1) An instrument is payable to order when by its terms it is payable to the order or assigns of any person therein specified with reasonable certainty, or to him or his order, or when it is conspicuously designated on its face as "exchange" or the like and names a payee. It may be payable to the order of

(a) the maker or drawer; or
(b) the drawee; or
(c) a payee who is not maker, drawer or drawee; or
(d) two or more payees together or in the alternative; or
(e) an estate, trust or fund, in which case it is payable to the order of the representative of such estate, trust or fund or his successors; or
(f) an office, or an officer by his title as such in which case it is payable to the principal but the incumbent of the office or his successors may act as if he or they were the holder; or

(g) a partnership or unincorporated association, in which case it is payable to the partnership or association and may be indorsed or transferred by any person thereto authorized.

(2) An instrument not payable to order is not made so payable by such words as "payable upon return of this instrument properly indorsed."

(3) An instrument made payable both to order and to bearer is payable to order unless the bearer words are handwritten or typewritten.

Section 3—111. *Payable to Bearer.* An instrument is payable to bearer when by its terms it is payable to

(a) bearer or the order of bearer; or

(b) a specified person or bearer; or

(c) "cash" or the order of "cash", or any other indication which does not purport to designate a specific payee.

Section 3—112. *Terms and Omissions Not Affecting Negotiability.* (1) The negotiability of an instrument is not affected by

(a) the omission of a statement of any consideration or of the place where the instrument is drawn or payable; or

(b) a statement that collateral has been given for the instrument or in case of default on the instrument the collateral may be sold; or

(c) a promise or power to maintain or protect collateral or to give additional collateral; or

(d) a term authorizing a confession of judgment on the instrument if it is not paid when due; or

(e) a term purporting to waive the benefit of any law intended for the advantage or protection of any obligor; or

(f) a term in a draft providing that the payee by indorsing or cashing it acknowledges full satisfaction of an obligation of the drawer; or

(g) a statement in a draft drawn in a set of parts (Section 3—801) to the effect that the order is effective only if no other part has been honored.

(2) Nothing in this section shall validate any term which is otherwise illegal.

Section 3—113. *Seal.* An instrument otherwise negotiable is within this Article even though it is under a seal.

Section 3—114. *Date, Antedating, Postdating.* (1) The negotiability of an instrument is not affected by the fact that it is undated, antedated or postdated.

(2) Where an instrument is antedated or postdated the time when it is payable is determined by the stated date if the instrument is payable on demand or at a fixed period after date.

(3) Where the instrument or any signature thereon is dated, the date is presumed to be correct.

Section 3—115. *Incomplete Instruments.* (1) When a paper whose contents at the time of signing show that it is intended to become an instrument is signed while still incomplete in any necessary respect it cannot be enforced until completed, but when it is completed in accordance with authority given it is effective as completed.

(2) If the completion is unauthorized the rules as to material alteration apply (Section 3—407), even though the paper was not delivered by the maker or drawer; but the burden of establishing that any completion is unauthorized is on the party so asserting.

Section 3—116. *Instruments Payable to Two or More Persons.* An instrument payable to the order of two or more persons

(a) if in the alternative is payable to any one of them and may be negotiated, discharged or enforced by any of them who has possession of it;

(b) if not in the alternative is payable to all of them and may be negotiated, discharged or enforced only by all of them.

Section 3—117. *Instruments Payable With Words of Description.* An instrument made payable to a named person with the addition of words describing him

(a) as agent or officer of a specified person is payable to his principal but the agent or officer may act as if he were the holder;

(b) as any other fiduciary for a specified person or purpose is payable to the payee and may be negotiated, discharged or enforced by him;

(c) in any other manner is payable to the payee unconditionally and the additional words are without effect on subsequent parties.

Section 3—118. *Ambiguous Terms and Rules of Construction.* The following rules apply to every instrument:

(a) Where there is doubt whether the instrument is a draft or a note the holder may treat it as either. A draft drawn on the drawer is effective as a note.

(b) Handwritten terms control typewritten and printed terms, and typewritten control printed.

(c) Words control figures except that if the words are ambiguous figures control.

(d) Unless otherwise specified a provision for interest means interest at the judgment rate at the place of payment from the date of the instrument, or if it is undated from the date of issue.

(e) Unless the instrument otherwise specifies two or more persons who sign as maker, acceptor or drawer or indorser and as a part of the same transaction are jointly and severally liable even though the instrument contains such words as "I promise to pay."

(f) Unless otherwise specified consent to extension authorizes a single extension for not longer than the original period. A consent to extension, expressed in the instrument, is binding on secondary parties and accommodation makers. A holder may not exercise his option to extend an instrument over the objection of a maker or acceptor or other party who in accordance with Section 3—604 tenders full payment when the instrument is due.

Section 3—119. *Other Writings Affecting Instrument.* (1) As between the obligor and his immediate obligee or any transferee the terms of an instrument may be modified or affected by any other written agreement executed as a part of the same transaction, except that a holder in due course is not affected by any limitation of his rights arising out of the separate written agreement if he had no notice of the limitation when he took the instrument.

(2) A separate agreement does not affect the negotiability of an instrument.

Section 3—120. *Instruments "Payable Through" Bank.* An instrument which states that it is "payable through" a bank or the like designates that bank as a collecting bank to make presentment but does not of itself authorize the bank to pay the instrument.

Section 3—121. *Instruments Payable at Bank.* A note or acceptance which states that it is payable at a bank is the equivalent of a draft drawn on the bank payable when it falls due out of any funds of the maker or acceptor in current account or otherwise available for such payment.

Section 3—122. *Accrual of Cause of Action.* (1) A cause of action against a maker or an acceptor accrues

(a) in the case of a time instrument on the day after maturity;

(b) in the case of a demand instrument upon its date or, if no date is stated, on the date of issue.

(2) A cause of action against the obligor of a demand or time certificate of deposit accrues upon demand, but demand on a time certificate may not be made until on or after the date of maturity.

(3) A cause of action against a drawer of a draft or an indorser of any instrument accrues upon demand following dishonor of the instrument. Notice of dishonor is a demand.

(4) Unless an instrument provides otherwise, interest runs at the rate provided by law for a judgment

(a) in the case of a maker of a demand note, from the date of demand;

(b) in all other cases from the date of accrual of the cause of action.

Part 2. Transfer and Negotiation

Section 3–201. *Transfer: Right to Indorsement.* (1) Transfer of an instrument vests in the transferee such rights as the transferor has therein, except that a transferee who has himself been a party to any fraud or illegality affecting the instrument or who as a prior holder had notice of a defense or claim against it cannot improve his position by taking from a later holder in due course.

(2) A transfer of a security interest in an instrument vests the foregoing rights in the transferee to the extent of the interest transferred.

(3) Unless otherwise agreed any transfer for value of an instrument not then payable to bearer gives the transferee the specifically enforceable right to have the unqualified indorsement of the transferor. Negotiation takes effect only when the indorsement is made and until that time there is no presumption that the transferee is the owner.

Sction 3–202. *Negotiation.* (1) Negotiation is the transfer of an instrument in such form that the transferee becomes a holder. If the instrument is payable to order it is negotiated by delivery with any necessary indorsement; if payable to bearer it is negotiated by delivery.

(2) An indorsement must be written by or on behalf of the holder and on the instrument or on a paper so firmly affixed thereto as to become a part thereof.

(3) An indorsement is effective for negotiation only when it conveys the entire instrument or any unpaid residue. If it purports to be of less it operates only as a partial assignment.

(4) Words of assignment, condition, waiver, guaranty, limitation or disclaimer of liability and the like accompanying an indorsement do not affect its character as an indorsement.

Section 3–203. *Wrong or Misspelled Name.* Where an instrument is made payable to a person under a misspelled name or one other than his own he may indorse in that name or his own or both; but signature in both names may be required by a person paying or giving value for the instrument.

Section 3–204. *Special Indorsement; Blank Indorsement.* (1) A special indorsement specifies the person to whom or to whose order it makes the instrument payable. Any instrument specially indorsed becomes payable to the order of the special indorsee and may be further negotiated only by his indorsement.

(2) An indorsement in blank specifies no particular indorsee and may consist of a mere signature. An instrument payable to order and indorsed in blank becomes payable to bearer and may be negotiated by delivery alone until specially indorsed.

(3) The holder may convert a blank indorsement into a special indorsement by writing over the signature of the indorser in blank any contract consistent with the character of the indorsement.

Section 3—205. *Restrictive Indorsements.* An indorsement is restrictive which either

(a) is conditional; or

(b) purports to prohibit further transfer of the instrument; or

(c) includes the words "for collection", "for deposit", "pay any bank", or like terms signifying a purpose of deposit or collection; or

(d) otherwise states that it is for the benefit or use of the indorser or of another person.

Section 3—206. *Effect of Restrictive Indorsement.* (1) No restrictive indorsement prevents further transfer or negotiation of the instrument.

(2) An intermediary bank, or a payor bank which is not the depositary bank, is neither given notice nor otherwise affected by a restrictive indorsement of any person except the bank's immediate transferor or the person presenting for payment.

(3) Except for an intermediary bank, any transferee under an indorsement which is conditional or includes the words "for collection", "for deposit", "pay any bank", or like terms (subparagraphs (a) and (c) of Section 3—205) must pay or apply any value given by him for or on the security of the instrument consistently with the indorsement and to the extent that he does so he becomes a holder for value. In addition such transferee is a holder in due course if he otherwise complies with the requirements of Section 3—302 on what constitutes a holder in due course.

(4) The first taker under an indorsement for the benefit of the indorser or another person (subparagraph (d) of Section 3—205) must pay or apply any value given by him for or on the security of the instrument consistently with the indorsement and to the extent that he does so he becomes a holder for value. In addition such taker is a holder in due course if he otherwise complies with the requirements of Section 3—302 on what constitutes a holder in due course. A later holder for value is neither given notice nor otherwise affected by such restrictive indorsement unless he has knowledge that a fiduciary or other person has negotiated the instrument in any transaction for his own benefit or otherwise in breach of duty (subsection (2) of Section 3—304).

Section 3—207. *Negotiation Effective Although It May Be Rescinded.* (1) Negotiation is effective to transfer the instrument although the negotiation is

(a) made by an infant, a corporation exceeding its powers, or any other person without capacity; or

(b) obtained by fraud, duress or mistake of any kind; or

(c) part of an illegal transaction; or

(d) made in breach of duty.

(2) Except as against a subsequent holder in due course such negotiation is in an appropriate case subject to rescission, the declaration of a constructive trust or any other remedy permitted by law.

Section 3—208. *Reacquisition.* Where an instrument is returned to or reacquired by a prior party he may cancel any indorsement which is not necessary to his title and reissue or further negotiate the instrument, but any intervening party is discharged as against the reacquiring party and subsequent holders not in due course and if his indorsement has been cancelled is discharged as against subsequent holders in due course as well.

Part 3. Rights of a Holder

Section 3—301. *Rights of a Holder.* The holder of an instrument whether or not he is the owner may transfer or negotiate it and, except as otherwise provided in Section 3—603 on payment or satisfaction, discharge it or enforce payment in his own name.

Section 3—302. *Holder in Due Course.* (1) A holder in due course is a holder who takes the instrument

(a) for value; and

(b) in good faith; and

(c) without notice that it is overdue or has been dishonored or of any defense against or claim to it on the part of any person.

(2) A payee may be a holder in due course.

(3) A holder does not become a holder in due course of an instrument:

(a) by purchase of it at judicial sale or by taking it under legal process; or

(b) by acquiring it in taking over an estate; or

(c) by purchasing it as part of a bulk transaction not in regular course of business of the transferor.

(4) A purchaser of a limited interest can be a holder in due course only to the extent of the interest purchased.

Section 3—303. *Taking for Value.* A holder takes the instrument for value

(a) to the extent that the agreed consideration has been performed or that he acquires a security interest in or a lien on the instrument otherwise than by legal process; or

(b) when he takes the instrument in payment of or as security for an antecedent claim against any person whether or not the claim is due; or
(c) when he gives a negotiable instrument for it or makes an irrevocable commitment to a third person.

Section 3—304. *Notice to Purchaser.* (1) The purchaser has notice of a claim or defense if
(a) the instrument is so incomplete, bears such visible evidence of forgery or alteration, or is otherwise so irregular as to call into question its validity, terms or ownership or to create an ambiguity as to the party to pay; or
(b) the purchaser has notice that the obligation of any party is voidable in whole or in part, or that all parties have been discharged.

(2) The purchaser has notice of a claim against the instrument when he has knowledge that a fiduciary has negotiated the instrument in payment of or as security for his own debt or in any transaction for his own benefit or otherwise in breach of duty.

(3) The purchaser has notice that an instrument is overdue if he has reason to know
(a) that any part of the principal amount is overdue or that there is an uncured default in payment of another instrument of the same series; or
(b) that acceleration of the instrument has been made; or
(c) that he is taking a demand instrument after demand has been made or more than a reasonable length of time after its issue. A reasonable time for a check drawn and payable within the states and territories of the United States and the District of Columbia is presumed to be thirty days.

(4) Knowledge of the following facts does not of itself give the purchaser notice of a defense or claim
(a) that the instrument is antedated or postdated;
(b) that it was issued or negotiated in return for an executory promise or accompanied by a separate agreement, unless the purchaser has notice that a defense or claim has arisen from the terms thereof;
(c) that any party has signed for accommodation;
(d) that an incomplete instrument has been completed, unless the purchaser has notice of any improper completion;
(e) that any person negotiating the instrument is or was a fiduciary;
(f) that there has been default in payment of interest on the instrument or in payment of any other instrument, except one of the same series.

(5) The filing or recording of a document does not of itself constitute notice within the provisions of this Article to a person who would otherwise be a holder in due course.

(6) To be effective notice must be received at such time and in such manner as to give a reasonable opportunity to act on it.

Section 3—305. *Rights of a Holder in Due Course.* To the extent that a holder is a holder in due course he takes the instrument free from

(1) all claims to it on the part of any person; and

(2) all defenses of any party to the instrument with whom the holder has not dealt except

- (a) infancy, to the extent that it is a defense to a simple contract; and
- (b) such other incapacity, or duress, or illegality of the transaction, as renders the obligation of the party a nullity; and
- (c) such misrepresentation as has induced the party to sign the instrument with neither knowledge nor reasonable opportunity to obtain knowledge of its character or its essential terms; and
- (d) discharge in insolvency proceedings; and
- (e) any other discharge of which the holder has notice when he takes the instrument.

Section 3—306. *Rights of One Not Holder in Due Course.* Unless he has the rights of a holder in due course any person takes the instrument subject to

- (a) all valid claims to it on the part of any person; and
- (b) all defenses of any party which would be available in an action on a simple contract; and
- (c) the defenses of want or failure of consideration, nonperformance of any condition precedent, non-delivery, or delivery for a special purpose (Section 3—408); and
- (d) the defense that he or a person through whom he holds the instrument acquired it by theft, or that payment or satisfaction to such holder would be inconsistent with the terms of a restrictive indorsement. The claim of any third person to the instrument is not otherwise available as a defense to any party liable thereon unless the third person himself defends the action for such party.

Section 3—307. *Burden of Establishing Signatures, Defenses and Due Course.* (1) Unless specifically denied in the pleadings each signature on an instrument is admitted. When the effectiveness of a signature is put in issue

- (a) the burden of establishing it is on the party claiming under the signature; but

(b) the signature is presumed to be genuine or authorized except where the action is to enforce the obligation of a purported signer who has died or become incompetent before proof is required.

(2) When signatures are admitted or established, production of the instrument entitles a holder to recover on it unless the defendant establishes a defense.

(3) After it is shown that a defense exists a person claiming the rights of a holder in due course has the burden of establishing that he or some person under whom he claims is in all respects a holder in due course.

Part 4. Liability of Parties

Section 3—401. *Signature.* (1) No person is liable on an instrument unless his signature appears thereon.

(2) A signature is made by use of any name, including any trade or assumed name, upon an instrument, or by any word or mark used in lieu of a written signature.

Section 3—402. *Signature in Ambiguous Capacity.* Unless the instrument clearly indicates that a signature is made in some other capacity it is an indorsement.

Section 3—403. *Signature by Authorized Representative.* (1) A signature may be made by an agent or other representative, and his authority to make it may be established as in other cases of representation. No particular form of appointment is necessary to establish such authority.

(2) An authorized representative who signs his own name to an instrument

(a) is personally obligated if the instrument neither names the person represented nor shows that the representative signed in a representative capacity;

(b) except as otherwise established between the immediate parties, is personally obligated if the instrument names the person represented but does not show that the representative signed in a representative capacity, or if the instrument does not name the person represented but does show that the representative signed in a representative capacity.

(3) Except as otherwise established the name of an organization preceded or followed by the name and office of an authorized individual is a signature made in a representative capacity.

Section 3—404. *Unauthorized Signatures.* (1) Any unauthorized signature is wholly inoperative as that of the person whose name is signed unless he ratifies it or is precluded from denying it; but it operates as the signature of the unauthorized signer in favor of any person who in good faith pays the instrument or takes it for value.

(2) Any unauthorized signature may be ratified for all purposes of this Article. Such ratification does not of itself affect any rights of the person ratifying against the actual signer.

Section 3—405. *Impostors; Signature in Name of Payee.* (1) An indorsement by any person in the name of a named payee is effective if

(a) an imposter by use of the mails or otherwise has induced the maker or drawer to issue the instrument to him or his confederate in the name of the payee; or

(b) a person signing as or on behalf of a maker or drawer intends the payee to have no interest in the instrument; or

(c) an agent or employee of the maker or drawer has supplied him with the name of the payee intending the latter to have no such interest.

(2) Nothing in this section shall affect the criminal or civil liability of the person so indorsing.

Section 3—406. *Negligence Contributing to Alteration or Unauthorized Signature.* Any person who by his negligence substantially contributes to a material alteration of the instrument or to the making of an authorized signature is precluded from asserting the alteration or lack of authority against a holder in due course or against a drawee or other payor who pays the instrument in good faith and in accordance with the reasonable commercial standards of the drawee's or payor's business.

Section 3—407. *Alteration.* (1) Any alteration of an instrument is material which changes the contract of any party thereto in any respect, including any such change in

(a) the number or relations of the parties; or

(b) an incomplete instrument, by completing it otherwise than as authorized; or

(c) the writing as signed, by adding to it or by removing any part of it.

(2) As against any person other than a subsequent holder in due course

(a) alteration by the holder which is both fraudulent and material discharges any party whose contract is thereby changed unless that party assents or is precluded from asserting the defense;

(b) no other alteration discharges any party and the instrument may be enforced according to its original tenor, or as to incomplete instruments according to the authority given.

(3) A subsequent holder in due course may in all cases enforce the instrument according to its original tenor, and when an incomplete instrument has been completed, he may enforce it as completed.

Section 3—408. *Consideration.* Want or failure of consideration is a defense as against any person not having the rights of a holder in due course (Section 3—305), except that no consideration is necessary for an instrument or obligation thereon given in payment of or as security for an antecedent obligation of any kind. Nothing in this section shall be taken to displace any statute outside this Act under which a promise is enforceable notwithstanding lack or failure of consideration. Partial failure of consideration is a defense pro tanto whether or not the failure is in an ascertained or liquidated amount.

Section 3—409. *Draft Not an Assignment.* (1) A check or other draft does not of itself operate as an assignment of any funds in the hands of the drawee available for its payment, and the drawee is not liable on the instrument until he accepts it.

(2) Nothing in this section shall affect any liability in contract, tort, or otherwise arising from any letter of credit or other obligation or representation which is not an acceptance.

Section 3—410. *Definition and Operation of Acceptance.* (1) Acceptance is the drawee's signed engagement to honor the draft as presented. It must be written on the draft, and may consist of his signature alone. It becomes operative when completed by delivery or notification.

(2) A draft may be accepted although it has not been signed by the drawer or is otherwise incomplete or is overdue or has been dishonored.

(3) Where the draft is payable at a fixed period after sight and the acceptor fails to date his acceptance the holder may complete it by supplying a date in good faith.

Section 3—411. *Certification of a Check.* (1) Certification of a check is acceptance. Where a holder procures certification the drawer and all prior indorsers are discharged.

(2) Unless otherwise agreed a bank has no obligation to certify a check.

(3) A bank may certify a check before returning it for lack of proper indorsement. If it does so the drawer is discharged.

Section 3—412. *Acceptance Varying Draft.* (1) Where the drawee's proffered acceptance in any manner varies the draft as presented the holder may refuse the acceptance and treat the draft as dishonored in which case the drawee is entitled to have his acceptance cancelled.

(2) The terms of the draft are not varied by an acceptance to pay at any particular bank or place in the continental United States, unless the acceptance states that the draft is to be paid only at such bank or place.

(3) Where the holder assents to an acceptance varying the terms of the draft each drawer and indorser who does not affirmatively assent is discharged.

Section 3—413. *Contract of Maker, Drawer and Acceptor.* (1) The maker or acceptor engages that he will pay the instrument according to its tenor at the time of his engagement or as completed pursuant to Section 3—115 on incomplete instruments.

(2) The drawer engages that upon dishonor of the draft and any necessary notice of dishonor or protest he will pay the amount of the draft to the holder or to any indorser who takes it up. The drawer may disclaim this liability by drawing without recourse.

(3) By making, drawing, or accepting the party admits as against all subsequent parties including the drawee the existence of the payee and his then capacity to indorse.

Section 3—414. *Contract of Indorser; Order of Liability.* (1) Unless the indorsement otherwise specifies (as by such words as "without recourse") every indorser engages that upon dishonor and any necessary notice of dishonor and protest he will pay the instrument according to its tenor at the time of his indorsement to the holder or to any subsequent indorser who takes it up, even though the indorser who takes it up was not obligated to do so.

(2) Unless they otherwise agree indorsers are liable to one another in the order in which they indorse, which is presumed to be the order in which their signatures appear on the instrument.

Section 3—415. *Contract of Accommodation Party.* (1) An accommodation party is one who signs the instrument in any capacity for the purpose of lending his name to another party to it.

(2) When the instrument has been taken for value before it is due the accommodation party is liable in the capacity in which he has signed even though the taker knows of the accommodation.

(3) As against a holder in due course and without notice of the accommodation oral proof of the accommodation is not admissible to give the accommodation party the benefit of discharges dependent on his character as such. In other cases the accommodation character may be shown by oral proof.

(4) An indorsement which shows that it is not in the chain of title is notice of its accommodation character.

(5) An accommodation party is not liable to the party accommodated, and if he pays the instrument has a right of recourse on the instrument against such party.

Section 3—416. *Contract of Guarantor.* (1) "Payment guaranteed" or equivalent words added to a signature mean that the signer engages that if the instrument is not paid when due he will pay it according to its tenor without resort by the holder to any other party.

(2) "Collection guaranteed" or equivalent words added to a signature mean that the signer engages that if the instrument is not paid when due he will pay it according to its tenor, but only after the holder has reduced his claim against the maker or acceptor to judgment and execution has been returned unsatisfied, or after the maker or acceptor has become insolvent or it is otherwise apparent that it is useless to proceed against him.

(3) Words of guaranty which do not otherwise specify guarantee payment.

(4) No words of guaranty added to the signature of a sole maker or acceptor affect his liability on the instrument. Such words added to the signature of one of two or more makers or acceptors create a presumption that the signature is for the accommodation of the others.

(5) When words of guaranty are used presentment, notice of dishonor and protest are not necessary to charge the user.

(6) Any guaranty written on the instrument is enforceable notwithstanding any statute of frauds.

Section 3—417. *Warranties on Presentment and Transfer.* (1) Any person who obtains payment or acceptance and any prior transferor warrants to a person who in good faith pays or accepts that

- (a) he has a good title to the instrument or is authorized to obtain payment or acceptance on behalf of one who has a good title; and
- (b) he has no knowledge that the signature of the maker or drawer is unauthorized, except that this warranty is not given by a holder in due course acting in good faith
  - (i) to a maker with respect to the maker's own signature; or
  - (ii) to a drawer with respect to the drawer's own signature, whether or not the drawer is also the drawee; or
  - (iii) to an acceptor of a draft if the holder in due course took the draft after the acceptance or obtained the acceptance without knowledge that the drawer's signature was unauthorized; and
- (c) the instrument has not been materially altered, except that this warranty is not given by a holder in due course acting in good faith
  - (i) to the maker of a note; or
  - (ii) to the drawer of a draft whether or not the drawer is also the drawee; or
  - (iii) to the acceptor of a draft with respect to an alteration made prior to the acceptance if the holder in due course took the draft after the acceptance, even though the acceptance prvoided "payable as originally drawn" or equivalent terms; or

(iv) to the acceptor of a draft with respect to an alteration made after the acceptance.

(2) Any person who transfers an instrument and receives consideration warrants to his transferee and if the transfer is by indorsement to any subsequent holder who takes the instrument in good faith that

(a) he has a good title to the instrument or is authorized to obtain payment or acceptance on behalf of one who has a good title and the transfer is otherwise rightful; and

(b) all signatures are genuine or authorized; and

(c) the instrument has not been materially altered; and

(d) no defense of any party is good against him; and

(e) he has no knowledge of any insolvency proceeding instituted with respect to the maker or acceptor or the drawer of an unaccepted instrument.

(3) By transferring "without recourse" the transferor limits the obligation stated in subsection (2) (d) to a warranty that he has no knowledge of such a defense.

(4) A selling agent or broker who does not disclose the fact that he is acting only as such gives the warranties provided in this section, but if he makes such disclosure warrants only his good faith and authority.

Section 3—418. *Finality of Payment or Acceptance.* Except for recovery of bank payments as provided in the Article on Bank Deposits and Collections (Article 4) and except for liability for breach of warranty on presentment under the preceding section, payment or acceptance of any instrument is final in favor of a holder in due course, or a person who has in good faith changed his position in reliance on the payment.

Section 3—419. *Conversion of Instrument; Innocent Representative.* (1) An instrument is converted when

(a) a drawee to whom it is delivered for acceptance refuses to return it on demand; or

(b) any person to whom it is delivered for payment refuses on demand either to pay or to return it; or

(c) it is paid on a forged indorsement.

(2) In an action against a drawee under subsection (1) the measure of the drawee's liability is the face amount of the instrument. In any other action under subsection (1) the measure of liability is presumed to be the face amount of the instrument.

(3) Subject to the provisions of this Act concerning restrictive indorsements a representative, including a depositary or collecting bank, who has in good faith and in accordance with the reasonable commercial standards applicable to the business of such representative

dealt with an instrument or its proceeds on behalf of one who was not the true owner is not liable in conversion or otherwise to the true owner beyond the amount of any proceeds remaining in his hands.

(4) An intermediary bank or payor bank which is not a depositary bank is not liable in conversion solely by reason of the fact that proceeds of an item indorsed restrictively (Sections 3—205 and 3—206) are not paid or applied consistently with the restrictive indorsement of an indorser other than its immediate transferor.

Part 5. Presentment, Notice of Dishonor and Protest

Section 3—501. *When Presentment, Notice of Dishonor, and Protest Necessary or Permissible.* (1) Unless excused (Section 3—511) presentment is necessary to charge secondary parties as follows:

(a) presentment for acceptance is necessary to charge the drawer and indorsers of a draft where the draft so provides, or is payable elsewhere than at the residence or place of business of the drawee, or its date of payment depends upon such presentment. The holder may at his option present for acceptance any other draft payable at a stated date;

(b) presentment for payment is necessary to charge any indorser;

(c) in the case of any drawer, the acceptor of a draft payable at a bank or the maker of a note payable at a bank, presentment for payment is necessary, but failure to make presentment discharges such drawer, acceptor or maker only as stated in Section 3—502 (1) (b).

(2) Unless excused (Section 3—511)

(a) notice of any dishonor is necessary to charge any indorser;

(b) in the case of any drawer, the acceptor of a draft payable at a bank or the maker of a note payable at a bank, notice of any dishonor is necessary, but failure to give such notice discharges such drawer, acceptor or maker only as stated in Section 3—502 (1) (b).

(3) Unless excused (Section 3—511) protest of any dishonor is necessary to charge the drawer and indorsers of any draft which on its face appears to be drawn or payable outside of the states and territories of the United States and the District of Columbia. The holder may at his option make protest of any dishonor of any other instrument and in the case of a foreign draft may on insolvency of the acceptor before maturity make protest for better security.

(4) Notwithstanding any provision of this section, either presentment nor notice of dishonor nor protest is necessary to charge an endorser who has indorsed an instrument after maturity.

Section 3—502. *Unexcused Delay; Discharge.* (1) Where without excuse any necessary presentment or notice of dishonor is delayed beyond the time when it is due

(a) any indorser is discharged; and

(b) any drawer or the acceptor of a draft payable at a bank or the maker of a note payable at a bank who because the drawee or payor bank becomes insolvent during the delay is deprived of funds maintained with the drawee or payor bank to cover the instrument may discharge his liability by written assignment to the holder of his rights against the drawee or payor bank in respect of such funds, but such drawer, acceptor or maker is not otherwise discharged.

(2) Where without excuse a necessary protest is delayed beyond the time when it is due any drawer or indorser is discharged.

Section 3—503. *Time of Presentment.* (1) Unless a different time is expressed in the instrument the time for any presentment is determined as follows:

(a) where an instrument is payable at or a fixed period after a stated date any presentment for acceptance must be made on or before the date it is payable;

(b) where an instrument is payable after sight it must either be presented for acceptance or negotiated within a reasonable time after date or issue whichever is later;

(c) where an instrument shows the date on which it is payable presentment for payment is due on that date;

(d) where an instrument is accelerated presentment for payment is due within a reasonable time after the acceleration;

(e) with respect to the liability of any secondary party presentment for acceptance or payment of any other instrument is due within a reasonable time after such party becomes liable thereon.

(2) A reasonable time for presentment is determined by the nature of the instrument, any usage of banking or trade and the facts of the particular case. In the case of an uncertified check which is drawn and payable within the United States and which is not a draft drawn by a bank the following are presumed to be reasonable periods within which to present for payment or to initiate bank collection:

(a) with respect to the liability of the drawer, thirty days after date or issue whichever is later; and

(b) with respect to the liability of an endorser, seven days after his indorsement.

(3) Where any presentment is due on a day which is not a full business day for either the person making presentment or the party to pay or accept, presentment is due on the next following day which is a full business day for both parties.

(4) Presentment to be sufficient must be made at a reasonable hour, and if at a bank during its banking day.

Section 3—504. *How Presentment Made.* (1) Presentment is a demand for acceptance or payment made upon the maker, acceptor, drawee or other payor by or on behalf of the holder.

(2) Presentment may be made
- (a) by mail, in which event the time of presentment is determined by the time of receipt of the mail; or
- (b) through a clearing house; or
- (c) at the place of acceptance or payment specified in the instrument or if there be none at the place of business or residence of the party to accept or pay. If neither the party to accept or pay nor anyone authorized to act for him is present or accessible at such place presentment is excused.

(3) It may be made
- (a) to any one of two or more makers, acceptors, drawees or other payors; or
- (b) to any person who has authority to make or refuse the acceptance or payment.

(4) A draft accepted or a note made payable at a bank in the continental United States must be presented at such bank.

(5) In the cases described in Section 4—210 presentment may be made in the manner and with the result stated in that section.

Section 3—505. *Rights of Party to Whom Presentment Is Made.* (1) The party to whom presentment is made may without dishonor require
- (a) exhibition of the instrument; and
- (b) reasonable identification of the person making presentment and evidence of his authority to make it if made for another; and
- (c) that the instrument be produced for acceptance or payment at a place specified in it, or if there be none at any place reasonable in the circumstances; and
- (d) a signed receipt on the instrument for any partial or full payment and its surrender upon full payment.

(2) Failure to comply with any such requirement invalidates the presentment but the person presenting has a reasonable time in which to comply and the time for acceptance or payment runs from the time of compliance.

Section 3—506. *Time Allowed for Acceptance or Payment.*

(1) Acceptance may be deferred without dishonor until the close of the next business day following presentment. The holder may also in a good faith effort to obtain acceptance and without either dis-

honor of the instrument or discharge of secondary parties allow postponement of acceptance for an additional business day.

(2) Except as a longer time is allowed in the case of documentary drafts drawn under a letter of credit, and unless an earlier time is agreed to by the party to pay, payment of an instrument may be deferred without dishonor pending reasonable examination to determine whether it is properly payable, but payment must be made in any event before the close of business on the day of presentment.

Section 3—507. *Dishonor; Holder's Right of Recourse; Term Allowing Re-Presentment.* (1) An instrument is dishonored when

(a) a necessary or optional presentment is duly made and due acceptance or payment is refused or cannot be obtained within the prescribed time or in case of bank collections the instrument is seasonably returned by the midnight deadline (Section 4—301); or

(b) presentment is excused and the instrument is not duly accepted or paid.

(2) Subject to any necessary notice of dishonor and protest, the holder has upon dishonor an immediate right of recourse against the drawers and indorsers.

(3) Return of an instrument for lack of proper indorsement is not dishonor.

(4) A term in a draft or an indorsement thereof allowing a stated time for re-presentment in the event of any dishonor of the draft by nonacceptance if a time draft or by nonpayment if a sight draft gives the holder as against any secondary party bound by the term an option to waive the dishonor without affecting the liability of the secondary party and he may present again up to the end of the stated time.

Section 3—508. *Notice of Dishonor.* (1) Notice of dishonor may be given to any person who may be liable on the instrument by or on behalf of the holder or any party who has himself received notice, or any other party who can be compelled to pay the instrument. In addition an agent or bank in whose hands the instrument is dishonored may give notice to his principal or customer or to another agent or bank from which the instrument was received.

(2) Any necessary notice must be given by a bank before its midnight deadline and by any other person before midnight of the third business day after dishonor or receipt of notice of dishonor.

(3) Notice may be given in any reasonable manner. It may be oral or written and in any terms which identify the instrument and state that it has been dishonored. A misdescription which does not mislead the party notified does not vitiate the notice. Sending the instrument bearing a stamp, ticket or writing stating that acceptance or payment has been refused or sending a notice of debit with respect to the instrument is sufficient.

(4) Written notice is given when sent although it is not received.

(5) Notice to one partner is notice to each although the firm has been dissolved.

(6) When any party is in insolvency proceedings instituted after the issue of the instrument notice may be given either to the party or to the representative of his estate.

(7) When any party is dead or incompetent notice may be sent to his last known address or given to his personal representative.

(8) Notice operates for the benefit of all parties who have rights on the instrument against the party notified.

Section 3—509. *Protest; Noting for Protest.* (1) A protest is a certificate of dishonor made under the hand and seal of a United States consul or vice consul or a notary public or other person authorized to certify dishonor by the law of the place where dishonor occurs. It may be made upon information satisfactory to such person.

(2) The protest must identify the instrument and certify either that due presentment has been made or the reason why it is excused and that the instrument has been dishonored by nonacceptance or nonpayment.

(3) The protest may also certify that notice of dishonor has been given to all parties or to specified parties.

(4) Subject to subsection (5) any necessary protest is due by the time that notice of dishonor is due.

(5) If, before protest is due, an instrument has been noted for protest by the officer to make protest, the protest may be made at any time thereafter as of the date of the noting.

Section 3—510. *Evidence of Dishonor and Notice of Dishonor.* The following are admissible as evidence and create a presumption of dishonor and of any notice of dishonor therein shown:

(a) a document regular in form as provided in the preceding section which purports to be a protest;

(b) the purported stamp or writing of the drawee, payor bank or presenting bank on the instrument or accompanying it stating that acceptance or payment has been refused for reasons consistent with dishonor;

(c) any book or record of the drawee, payor bank, or any collecting bank kept in the usual course of business which shows dishonor, even though there is no evidence of who made the entry.

Section 3—511. *Waived or Excused Presentment, Protest or Notice of Dishonor or Delay Therein.* (1) Delay in presentment, protest or notice of dishonor is excused when the party is without notice that it is due or when the delay is caused by circumstances beyond his control and he exercises reasonable diligence after the cause of the delay ceases to operate.

(2) Presentment or notice or protest as the case may be is entirely excused when

- (a) the party to be charged has waived it expressly or by implication either before or after it is due; or
- (b) such party has himself dishonored the instrument or has countermanded payment or otherwise has no reason to expect or right to require that the instrument be accepted or paid; or
- (c) by reasonable diligence the presentment or protest cannot be made or the notice given.

(3) Presentment is also entirely excused when

- (a) the maker, acceptor or drawee of any instrument except a documentary draft is dead or in insolvency proceedings instituted after the issue of the instrument; or
- (b) acceptance or payment is refused but not for want of proper presentment.

(4) Where a draft has been dishonored by nonacceptance a later presentment for payment and any notice of dishonor and protest for nonpayment are excused unless in the meantime the instrument has been accepted.

(5) A waiver of protest is also a waiver of presentment and of notice of dishonor even though protest is not required.

(6) Where a waiver of presentment or notice or protest is embodied in the instrument itself it is binding upon all parties; but where it is written above the signature of an indorser it binds him only.

Part 6. Discharge

Section 3—601. *Discharge of Parties.* (1) The extent of the discharge of any party from liability on an instrument is governed by the sections on

- (a) payment or satisfaction (Section 3—603); or
- (b) tender of payment (Section 3—604); or
- (c) cancellation or renunciation (Section 3—605); or
- (d) impairment of right of recourse or of security (Section 3—606); or
- (e) reacquisition of the instrument by a prior party (Section 3—208); or
- (f) fraudulent and material alteration (Section 3—407); or
- (g) certification of a check (Section 3—411); or
- (h) acceptance varying a draft (Section 3—412); or
- (i) unexcused delay in presentment or notice of dishonor or protest (Section 3—502).

(2) Any party is also discharged from his liability on an instrument to another party by any other act or agreement with such party which would discharge his simple contract for the payment of money.

(3) The liability of all parties is discharged when any party who has himself no right of action or recourse on the instrument

(a) reacquires the instrument in his own right; or

(b) is discharged under any provision of this Article, except as otherwise provided with respect to discharge for impairment of recourse or of security (Section 3—606).

Section 3—602. *Effect of Discharge Against Holder in Due Course.* No discharge of any party provided by this Article is effective against a subsequent holder in due course unless he has notice thereof when he takes the instrument.

Section 3—603. *Payment or Satisfaction.* (1) The liability of any party is discharged to the extent of his payment or satisfaction to the holder even though it is made with knowledge of a claim of another person to the instrument unless prior to such payment or satisfaction the person making the claim either supplies indemnity deemed adequate by the party seeking the discharge or enjoins payment or satisfaction by order of a court of competent jurisdiction in an action in which the adverse claimant and the holder are parties. This subsection does not, however, result in the discharge of the liability

(a) of a party who in bad faith pays or satisfies a holder who acquired the instrument by theft or who (unless having the rights of a holder in due course) holds through one who so acquired it; or

(b) of a party (other than an intermediary bank or a payor bank which is not a depositary bank) who pays or satisfies the holder of an instrument which has been restrictively indorsed in a manner not consistent with the terms of such restrictive indorsement.

(2) Payment or satisfaction may be made with the consent of the holder by any person including a stranger to the instrument. Surrender of the instrument to such a person gives him the rights of a transferee (Section 3—201).

Section 3—604. *Tender of Payment.* (1) Any party making tender of full payment to a holder when or after it is due is discharged to the extent of all subsequent liability for interest, cost and attorney's fees.

(2) The holder's refusal of such tender wholly discharges any party who has a right of recourse against the party making the tender.

(3) Where the maker or acceptor of an instrument payable otherwise than on demand is able and ready to pay at every place of payment specified in the instrument when it is due, it is equivalent to tender.

Section 3—605. *Cancellation and Renunciation.* (1) The holder of an instrument may even without consideration discharge any party

(a) in any manner apparent on the face of the instrument or the indorsement, as by intentionally cancelling the instrument or the party's signature by destruction or mutilation, or by striking out the party's signature; or

(b) by renouncing his rights by a writing signed and delivered or by surrender of the instrument to the party to be discharged.

(2) Neither cancellation nor renunciation without surrender of the instrument affects the title thereto.

Section 3—606. *Impairment of Recourse or of Collateral.* (1) The holder discharges any party to the instrument to the extent that without such party's consent the holder

(a) without express reservation of rights releases or agrees not to sue any person against whom the party has to the knowledge of the holder a right of recourse or agrees to suspend the right to enforce against such person the instrument or collateral or otherwise discharges such person, except that failure or delay in effecting any required presentment, protest or notice of dishonor with respect to any such person does not discharge any party as to whom presentment, protest or notice of dishonor is effective or unnecessary; or

(b) unjustifiably impairs any collateral for the instrument given by or on behalf of the party or any person against whom he has a right of recourse.

(2) By express reservation of rights against a party with a right of recourse the holder preserves

(a) all his rights against such party as of the time when the instrument was originally due; and

(b) the right of the party to pay the instrument as of that time; and

(c) all rights of such party to recourse against others.

Part 7. Advice of International Sight Draft

Section 3—701. *Letter of Advice of International Sight Draft.* (1) A "letter of advice" is a drawer's communication to the drawee that a described draft has been drawn.

(2) Unless otherwise agreed when a bank receives from another bank a letter of advice of an international sight draft the drawee bank may immediately debit the drawer's account and stop the running of interest pro tanto. Such a debit and any resulting credit to any account covering outstanding drafts leaves in the drawer full power to stop payment or otherwise dispose of the amount and creates no trust or interest in favor of the holder.

(3) Unless otherwise agreed and except where a draft is drawn under a credit issued by the drawee, the drawee of an international

sight draft owes the drawer no duty to pay an unadvised draft but if it does so and the draft is genuine, may appropriately debit the drawer's account.

Part 8. Miscellaneous

Section 3—801. *Drafts in a Set.* (1) Where a draft is drawn in a set of parts, each of which is numbered and expressed to be an order only if no other part has been honored, the whole of the parts constitutes one draft but a taker of any part may become a holder in due course of the draft.

(2) Any person who negotiates, indorses or accepts a single part of a draft drawn in a set thereby becomes liable to any holder in due course of that part as if it were the whole set, but as between different holders in due course to whom different parts have been negotiated the holder whose title first accrues has all rights to the draft and its proceeds.

(3) As against the drawee the first presented part of a draft drawn in a set is the part entitled to payment, or if a time draft to acceptance and payment. Acceptance of any subsequently presented part renders the drawee liable thereon under subsection (2). With respect both to a holder and to the drawer payment of a subsequently presented part of a draft payable at sight has the same effect as payment of a check notwithstanding an effective stop order (Section 4—407).

(4) Except as otherwise provided in this section, where any part of a draft in a set is discharged by payment or otherwise the whole draft is discharged.

Section 3—802. *Effect of Instrument on Obligation for Which It is Given.* (1) Unless otherwise agreed where an instrument is taken for an underlying obligation

(a) the obligation is pro tanto discharged if a bank is drawer, maker or acceptor of the instrument and there is no recourse on the instrument against the underlying obligor; and

(b) in any other case the obligation is suspended pro tanto until the instrument is due or if it is payable on demand until its presentment. If the instrument is dishonored action may be maintained on either the instrument or the obligation; discharge of the underlying obligor on the instrument also discharges him on the obligation.

(2) The taking in good faith of a check which is not postdated does not of itself so extend the time on the original obligation as to discharge a surety.

Section 3—803. *Notice to Third Party.* Where a defendant is sued for breach of an obligation for which a third person is answerable over under this Article he may give the third person written notice of the litigation, and the person notified may then give similar notice to any other person who is answerable over to him under this Article. If the notice states that the person notified may come in and defend and that if the person notified does not do so he will in any action against him by the person giving the notice be bound by any determination of fact common to the two litigations, then unless after seasonable receipt of the notice the person notified does come in and defend he is so bound.

Section 3—804. *Lost, Destroyed or Stolen Instruments.* The owner of an instrument which is lost, whether by destruction, theft or otherwise, may maintain an action in his own name and recover from any party liable thereon upon due proof of his ownership, the facts which prevent his production of the instrument and its terms. The court may require security indemnifying the defendant against loss by reason of further claims on the instrument.

Section 3—805. *Instruments Not Payable to Order or to Bearer.* This Article applies to any instrument whose terms do not preclude transfer and which is otherwise negotiable within this Article but which is not payable to order or to bearer, except that there can be no holder in due course of such an instrument.

## ARTICLE 4. BANK DEPOSITS AND COLLECTIONS

### Part 1. General Provisions and Definitions

Section 4—101. *Short Title.* This Article shall be known and may be cited as Uniform Commercial Code — Bank Deposits and Collections.

Section 4—102. *Applicability.* (1) To the extent that items within this Article are also within the scope of Articles 3 and 8, they are subject to the provisions of those Articles. In the event of conflict the provisions of this Article govern those of Article 3 but the provisions of Article 8 govern those of this Article.

(2) The liability of a bank for action or non-action with respect to any item handled by it for purposes of presentment, payment or collection is governed by the law of the place where the bank is located. In the case of action or non-action by or at a branch or separate office of a bank, its liability is governed by the law of the place where the branch or separate office is located.

Section 4—103. *Variation by Agreement; Measure of Damages; Certain Action Constituting Ordinary Care.* (1) The effect of the provisions of this Article may be varied by agreement except that no agreement can disclaim a bank's responsibility for its own lack of good faith or failure to exercise ordinary care or can limit the measure of damages for such lack or failure; but the parties may by agreement determine the standards by which such responsibility is to be measured if such standards are not manifestly unreasonable.

(2) Federal Reserve regulations and operating letters, clearing house rules, and the like, have the effect of agreements under subsection (1), whether or not specifically assented to by all parties interested in items handled.

(3) Action or non-action approved by this Article or pursuant to Federal Reserve regulations or operating letters constitutes the exercise of ordinary care and, in the absence of special instructions, action or non-action consistent with clearing house rules and the like or with a general banking usage not disapproved by this Article, prima facie constitutes the exercise of ordinary care.

(4) The specification or approval of certain procedures by this Article does not constitute disapproval of other procedures which may be reasonable under the circumstances.

(5) The measure of damages for failure to exercise ordinary care in handling an item is the amount of the item reduced by an amount which could not have been realized by the use of ordinary care, and where there is bad faith it includes other damages, if any, suffered by the party as a proximate consequence.

Section 4—104. *Definitions and Index of Definitions.* (1) In this Article unless the context otherwise requires

(a) "Account" means any account with a bank and includes a checking, time, interest or savings account;

(b) "Afternoon" means the period of a day between noon and midnight;

(c) "Banking day" means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions;

(d) "Clearing house" means any association of banks or other payors regularly clearing items;

(e) "Customer" means any person having an account with a bank or for whom a bank has agreed to collect items and includes a bank carrying an account with another bank;

(f) "Documentary draft" means any negotiable or non-negotiable draft with accompanying documents, securities or other papers to be delivered against honor of the draft;

(g) "Item" means any instrument for the payment of money even though it is not negotiable but does not include money;

(h) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later;

(i) "Properly payable" includes the availability of funds for payment at the time of decision to pay or dishonor;

(j) "Settle" means to pay in cash, by clearing house settlement, in a charge or credit or by remittance, or otherwise as instructed. A settlement may be either provisional or final;

(k) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over or that it ceases or refuses to make payments in the ordinary course of business.

(2) Other definitions applying to this Article and the sections in which they appear are:

| | |
|---|---|
| "Collecting bank" | Section 4—105. |
| "Depositary bank" | Section 4—105. |
| "Intermediary bank" | Section 4—105. |
| "Payor bank" | Section 4—105. |
| "Presenting bank" | Section 4—105. |
| "Remitting bank" | Section 4—105. |

(3) The following definitions in other Articles apply to this Article:

| | |
|---|---|
| "Acceptance" | Section 3—410. |
| "Certificate of deposit" | Section 3—104. |
| "Certification" | Section 3—411. |
| "Check" | Section 3—104. |
| "Draft" | Section 3—104. |
| "Holder in due course" | Section 3—302. |
| "Notice of dishonor" | Section 3—508. |
| "Presentment" | Section 3—504. |
| "Protest" | Section 3—509. |
| "Secondary party" | Section 3—102. |

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Section 4—105. *"Depositary Bank"; "Intermediary Bank"; "Collecting Bank"; "Payor Bank"; "Presenting Bank"; "Remitting Bank."* In this Article unless the context otherwise requires:

(a) "Depositary bank" means the first bank to which an item is transferred for collection even though it is also the payor bank;

(b) "Payor bank" means a bank by which an item is payable as drawn or accepted;

(c) "Intermediary bank" means any bank to which an item is transferred in course of collection except the depositary or payor bank;

(d) "Collecting bank" means any bank handling the item for collection except the payor bank;
(e) "Presenting bank" means any bank presenting an item except a payor bank;
(f) "Remitting bank" means any payor or intermediary bank remitting for an item.

Section 4—106. *Separate Office of a Bank.* A branch or separate office of a bank maintaining its own deposit ledgers is a separate bank for the purpose of computing the time within which and the place at or to which action may be taken or notices or orders shall be given under this Article.

Section 4—107. *Time of Receipt of Items.* (1) For the purpose of allowing time to process items, prove balances and make the necessary entries on its books to determine its position for the day, a bank may fix an afternoon hour of two P.M. or later as a cut-off hour for the handling of money and items and the making of entries on its books.

(2) Any item or deposit of money received on any day after a cut-off hour so fixed or after the close of the banking day may be treated as being received at the opening of the next banking day.

Section 4—108. *Delays.* (1) Unless otherwise instructed, a collecting bank in a good faith effort to secure payment may, in the case of specific items and with or without the approval of any person involved, waive, modify or extend time limits imposed or permitted by this Act for a period not in excess of an additional banking day without discharge of secondary parties and without liability to its transferor or any prior party.

(2) Delay by a collecting bank or payor bank beyond time limits prescribed or permitted by this Act or by instructions is excused if caused by interruption of communication facilities, suspension of payments by another bank, war, emergency conditions or other circumstances beyond the control of the bank provided it exercises such diligence as the circumstances require.

## Part 2. Collection of Items: Depositary and Collecting Banks

Section 4—201. *Presumption and Duration of Agency Status of Collecting Banks and Provisional Status of Credits; Applicability of Article; Item Indorsed "Pay Any Bank".* (1) Unless a contrary intent clearly appears and prior to the time that a settlement given by a collecting bank for an item is or becomes final (subsection (3) of Section 4—211 and Sections 4—212 and 4—213) the bank is an agent or sub-agent of the owner of the item and any settlement given for the item is provisional. This provision applies regardless of the form of indorsement or lack of indorsement and even though credit given for the item is subject to immediate withdrawal as of right or is in fact withdrawn; but the continuance of ownership of an item by its owner and any rights of the owner to proceeds of the item are subject to rights of a collecting bank such as those resulting from outstanding advances on the item and valid rights of setoff. When an item is handled by banks for the purposes of presentment, payment and collection, the relevant provisions of this Article apply even though action of parties clearly establishes that a particular bank has purchased the item and is the owner of it.

(2) After an item has been indorsed with the words "pay any bank" or the like, only a bank may acquire the rights of a holder

(a) until the item has been returned to the customer initiating collection; or

(b) until the item has been specially indorsed by a bank to a person who is not a bank.

Section 4—202. *Responsibility for Collection; When Action Seasonable.* (1) A collecting bank must use ordinary care in

(a) presenting an item or sending it for presentment; and

(b) sending notice of dishonor or non-payment or returning an item other than a documentary draft to the bank's transferor or directly to the depositary bank under subsection (2) of Section 4—212 after learning that the item has not been paid or accepted, as the case may be; and

(c) settling for an item when the bank receives final settlement; and

(d) making or providing for any necessary protest; and

(e) notifying its transferor of any loss or delay in transit within a reasonable time after discovery thereof.

(2) A collecting bank taking proper action before its midnight deadline following receipt of an item, notice or payment acts seasonably; taking proper action within a reasonably longer time may be seasonable but the bank has the burden of so establishing.

(3) Subject to subsection (1) (a), a bank is not liable for the insolvency, neglect, misconduct, mistake or default of another bank or person or for loss or destruction of an item in transit or in the possession of others.

Section 4—203. *Effect of Instructions.* Subject to the provisions of Article 3 concerning conversion of instruments (Section 3—419) and the provisions of both Article 3 and this Article concerning restrictive indorsements only a collecting bank's transferor can give instructions which affect the bank or constitute notice to it and a collecting bank is not liable to prior parties for any action taken pursuant to such instructions or in accordance with any agreement with its transferor.

Section 4—204. *Methods of Sending and Presenting; Sending Direct to Payor Bank.* (1) A collecting bank must send items by reasonably prompt method taking into consideration any relevant instructions, the nature of the item, the number of such items on hand, and the cost of collection involved and the method generally used by it or others to present such items.

(2) A collecting bank may send

(a) any item direct to the payor bank;

(b) any item to any non-bank payor if authorized by its transferor; and

(c) any item other than documentary drafts to any non-bank payor, if authorized by Federal Reserve regulation or operating letter, clearing house rule or the like.

Section 4—205. *Supplying Missing Indorsement; No Notice From Prior Indorsement.* (1) A depositary bank which has taken an item for collection may supply any indorsement of the customer which is necessary to title unless the item contains the words "payee's indorsement required" or the like. In the absence of such a requirement a statement placed on the item by the depositary bank to the effect that the item was deposited by a customer or credited to his account is effective as the customer's indorsement.

(2) An intermediary bank, or payor bank which is not a depositary bank, is neither given notice nor otherwise affected by a restrictive indorsement of any person except the bank's immediate transferor.

Section 4—206. *Transfer Between Banks.* Any agreed method which identifies the transferor bank is sufficient for the item's further transfer to another bank.

Section 4—207. *Warranties of Customer and Collecting Bank on Transfer or Presentment of Items; Time for Claims.* (1) Each customer or collecting bank who obtains payment or acceptance of an item and each prior customer and collecting bank warrants to the payor bank or other payor who in good faith pays or accepts the item that

(a) he has a good title to the item or is authorized to obtain payment or acceptance on behalf of one who has a good title; and

(b) he has no knowledge that the signature of the maker or drawer is unauthorized, except that this warranty is not given by any customer or collecting bank that is a holder in due course and acts in good faith

(i) to a maker with respect to the maker's own signature; or

(ii) to a drawer with respect to the drawer's own signature, whether or not the drawer is also the drawee; or

(iii) to an acceptor of an item if the holder in due course took the item after the acceptance or obtained the acceptance without knowledge that the drawer's signature was unauthorized; and

(c) the item has not been materially altered, except that this warranty is not given by any customer or collecting bank that is a holder in due course and acts in good faith
  (i) to the maker of a note; or
  (ii) to the drawer of a draft whether or not the drawer is also the drawee; or
  (iii) to the acceptor of an item with respect to an alteration made prior to the acceptance if the holder in due course took the item after the acceptance, even though the acceptance provided "payable as originally drawn" or equivalent terms; or
  (iv) to the acceptor of an item with respect to an alteration made after the acceptance.

(2) Each customer and collecting bank who transfers an item and receives a settlement or other consideration for it warrants to his transferee and to any subsequent collecting bank who takes the item in good faith that

(a) he has a good title to the item or is authorized to obtain payment or acceptance on behalf of one who has a good title and the transfer is otherwise rightful; and
(b) all signatures are genuine or authorized; and
(c) the item has not been materially altered; and
(d) no defense of any party is good against him; and
(e) he has no knowledge of any insolveny proceeding instituted with respect to the maker or acceptor or the drawer of an unaccepted item.

In addition each customer and collecting bank so transferring an item and receiving a settlement or other consideration engages that upon dishonor and any necessary notice of dishonor and protest he will take up the item.

(3) The warranties and the engagement to honor set forth in the two preceding subsections arise notwithstanding the absence of indorsement or words of guaranty or warranty in the transfer or presentment and a collecting bank remains liable for their breach despite remittance to its transferor. Damages for breach of such warranties or engagement to honor shall not exceed the consideration received by the customer or collecting bank responsible plus finance charges and expenses related to the item, if any.

(4) Unless a claim for breach of warranty under this section is made within a reasonable time after the person claiming learns of the breach, the person liable is discharged to the extent of any loss caused by the delay in making claim.

Section 4—208. *Security Interest of Collecting Bank in Items, Accompanying Documents and Proceeds.* (1) A bank has a security interest in an item and any accompanying documents or the proceeds of either

(a) in case of an item deposited in an account to the extent to which credit given for the item has been withdrawn or applied;

(b) in case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given whether or not the credit is drawn upon and whether or not there is a right of charge-back; or

(c) if it makes an advance on or against the item.

(2) When credit which has been given for several items received at one time or pursuant to a single agreement is withdrawn or applied in part the security interest remains upon all the items, any accompanying documents or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

(3) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents and proceeds. To the extent and so long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues and is subject to the provisions of Article 9 except that

(a) no security agreement is necessary to make the security interest enforceable (subsection (1)(b) of Section 9—203); and

(b) no filing is required to perfect the security interest; and

(c) the security interest has priority over conflicting perfected security interests in the item, accompanying documents or proceeds.

Section 4—209. *When Bank Gives Value for Purposes of Holder in Due Course.* For purposes of determining its status as a holder in due course, the bank has given value to the extent that it has a security interest in an item provided that the bank otherwise complies with the requirements of Section 3—302 on what constitutes a holder in due course.

Section 4—210. *Presentment by Notice of Item Not Payable by, Through or at a Bank; Liability of Secondary Parties.* (1) Unless otherwise instructed, a collecting bank may present an item not payable by, through or at a bank by sending to the party to accept or pay a written notice that the bank holds the item for acceptance or payment. The notice must be sent in time to be received on or before the day when presentment is due and the bank must meet any requirement of the party to accept or pay under Section 3—505 by the close of the bank's next banking day after it knows of the requirement.

(2) Where presentment is made by notice and neither honor nor request for compliance with a requirement under Section 3—505 is received by the close of business on the day after maturity or in the case of demand items by the close of business on the third banking

day after notice was sent, the presenting bank may treat the item as dishonored and charge any secondary party by sending him notice of the facts.

Section 4–211. *Media of Remittance; Provisional and Final Settlement in Remittance Cases.* (1) A collecting bank may take in settlement of an item

- (a) a check of the remitting bank or of another bank on any bank except the remitting bank; or
- (b) a cashier's check or similar primary obligation of a remitting bank which is a member of or clears through a member of the same clearing house or groups as the collecting bank; or
- (c) appropriate authority to charge an account of the remitting bank or of another bank with the collecting bank; or
- (d) if the item is drawn upon or payable by a person other than a bank, a cashier's check, certified check or other bank check or obligation.

(2) If before its midnight deadline the collecting bank properly dishonors a remittance check or authorization to charge on itself or presents or forwards for collection a remittance instrument of or on another bank which is of a kind approved by subsection (1) or has not been authorized by it, the collecting bank is not liable to prior parties in the event of the dishonor of such check, instrument or authorization.

(3) A settlement for an item by means of a remittance instrument or authorization to charge is or becomes a final settlement as to both the person making and the person receiving the settlement

- (a) if the remittance instrument or authorization to charge is of a kind approved by subsection (1) or has not been authorized by the person receiving the settlement and in either case the person receiving the settlement acts seasonably before its midnight deadline in presenting, forwarding for collection or paying the instrument or authorization,—at the time the remittance instrument or authorization is finally paid by the payor by which it is payable;
- (b) If the person receiving the settlement has authorized remittance by a non-bank check or obligation or by a cashier's check or similar primary obligation of or a check upon the payor or other remitting bank which is not of a kind approved by subsection (1)(b),—at the time of the receipt of such remittance check or obligation; or
- (c) if in a case not covered by sub-paragraphs (a) or (b) the person receiving the settlement fails to seasonably present, forward for collection, pay or return a remittance in-

strument or authorization to it to charge before its midnight deadline,—at such midnight deadline.

Section 4—212. *Right of Charge-Back or Refund.* (1) If a collecting bank has made provisional settlement with its customer for an item and itself fails by reason of dishonor, suspension of payments by a bank or otherwise to receive a settlement for the item which is or becomes final, the bank may revoke the settlement given by it, charge-back the amount of any credit given for the item to its customer's account or obtain refund from its customer whether or not it is able to return the items if by its midnight deadline or within a longer reasonable time after it learns the facts it returns the item or sends notification of the facts. These rights to revoke, charge-back and obtain refund terminate if and when a settlement for the item received by the bank is or becomes final (subsection (3) of Section 4—211 and subsections (2) and (3) of Section 4—213).

(2) Within the time and manner prescribed by this section and Section 4—301, an intermediary or payor bank, as the case may be, may return an unpaid item directly to the depositary bank and may send for collection a draft on the depositary bank and obtain reimbursement. In such case, if the depositary bank has received provisional settlement for the item, it must reimburse the bank drawing the draft and any provisional credits for the item between banks shall become and remain final.

(3) A depositary bank which is also the payor may charge-back the amount of an item to its customer's account or obtain refund in accordance with the section governing return of an item received by a payor bank for credit on its books (Section 4—301).

(4) The right to charge-back is not affected by

(a) prior use of the credit given for the item; or

(b) failure by any bank to exercise ordinary care with respect to the item but any bank so failing remains liable.

(5) A failure to charge-back or claim refund does not affect other rights of the bank against the customer or any other party.

(6) If credit is given in dollars as the equivalent of the value of an item payable in a foreign currency the dollar amount of any charge-back or refund shall be calculated on the basis of the buying sight rate for the foreign currency prevailing on the day when the person entitled to the charge-back or refund learns that it will not receive payment in ordinary course.

Section 4—213. *Final Payment of Item by Payor Bank; When Provisional Debits and Credits Become Final; When Certain Credits Become Available for Withdrawal.* (1) An item is finally paid by a payor bank when the bank has done any of the following, whichever happens first:

(a) paid the item in cash; or

(b) settled for the item without reserving a right to revoke the settlement and without having such right under statute, clearing house rule or agreement; or
(c) completed the process of posting the item to the indicated account of the drawer, maker or other person to be charged therewith; or
(d) made a provisional settlement for the item and failed to revoke the settlement in the time and manner permitted by statute, clearing house rule or agreement.

Upon a final payment under subparagraphs (b), (c) or (d) the payor bank shall be accountable for the amount of the item.

(2) If provisional settlement for an item between the presenting and payor banks is made through a clearing house or by debits or credits in an account between them, then to the extent that provisional debits or credits for the item are entered in accounts between the presenting and payor banks or between the presenting and successive prior collecting banks seriatim, they become final upon final payment of the item by the payor bank.

(3) If a collecting bank receives a settlement for an item which is or becomes final (subsection (3) of Section 4—211, subsection (2) of Section 4—213) the bank is accountable to its customer for the amount of the item and any provisional credit given for the item in an account with its customer becomes final.

(4) Subject to any right of the bank to apply the credit to an obligation of the customer, credit given by a bank for an item in an account with its customer becomes available for withdrawal as of right

(a) in any case where the bank has received a provisional settlement for the item,—when such settlement becomes final and the bank has had a reasonable time to learn that the settlement is final;
(b) in any case where the bank is both a depositary bank and a payor bank and the item is finally paid,—at the opening of the bank's second banking day following receipt of the item.

(5) A deposit of money in a bank is final when made but, subject to any right of the bank to apply the deposit to an obligation of the customer, the deposit becomes available for withdrawal as of right at the opening of the bank's next banking day following receipt of the deposit.

Section 4—214. *Insolvency and Preference.* (1) Any item in or coming into the possession of a payor or collecting bank which suspends payment and which item is not finally paid shall be returned by the receiver, trustee or agent in charge of the closed bank to the presenting bank or the closed bank's customer.

(2) If a payor bank finally pays an item and suspends payments without making a settlement for the item with its customer or the

presenting bank which settlement is or becomes final, the owner of the item has a preferred claim against the payor bank.

(3) If a payor bank gives or a collecting bank gives or receives a provisional settlement for an item and thereafter suspends payments, the suspension does not prevent or interfere with the settlement becoming final if such finality occurs automatically upon the lapse of certain time or the happening of certain events (subsection (3) of Section 4—211, subsections (1) (d), (2) and (3) of Section 4—213).

(4) If a collecting bank receives from subsequent parties settlement for an item which settlement is or becomes final and suspends payments without making a settlement for the item with its customer which is or becomes final, the owner of the item has a preferred claim against such collecting bank.

Part 3. Collection of Items: Payor Banks

Section 4—301. *Deferred Posting; Recovery of Payment by Return of Items; Time of Dishonor.* (1) Where an authorized settlement for a demand item (other than a documentary draft) received by a payor bank otherwise than for immediate payment over the counter has been made before midnight of the banking day of receipt the payor bank may revoke the settlement and recover any payment if before it has made final payment (subsection (1) of Section 4—213) and before its midnight deadline it

(a) returns the item; or

(b) sends written notice of dishonor or nonpayment if the item is held for protest or is otherwise unavailable for return.

(2) If a demand item is received by a payor bank for credit on its books it may return such item or send notice of dishonor and may revoke any credit given or recover the amount thereof withdrawn by its customer, if it acts within the time limit and in the manner specified in the preceding subsection.

(3) Unless previous notice of dishonor has been sent an item is dishonored at the time when for purposes of dishonor it is returned or notice sent in accordance with this section.

(4) An item is returned:

(a) As to an item received through a clearing house, when it is delivered to the presenting or last collecting bank or to the clearing house or is sent or delivered in accordance with its rules; or

(b) In all other cases, when it is sent or delivered to the bank's customer or transferor or pursuant to his instructions.

Section 4—302. *Payor Bank's Responsiblity for Late Return of Item.* In the absence of a valid defense such as breach of a presentment warranty (subsection (1) of Section 4—207), settlement effected or the like, if an item is presented on and received by a payor bank the bank is accountable for the amount of

(a) a demand item other than a documentary draft whether properly payable or not if the bank, in any case where it is not also the depositary bank, retains the item beyond midnight of the banking day of receipt without settling for it or, regardless of whether it is also the depositary bank, does not pay or return the item or send notice of dishonor until after its midnight deadline; or

(b) any other properly payable item unless within the time allowed for acceptance or payment of that item the bank either accepts or pays the item or returns it and accompanying documents.

Section 4—303. *When Items Subject to Notice, Stop-Order, Legal Process or Setoff; Order in Which Items May Be Charged or Certified.* (1) Any knowledge, notice or stop-order received by, legal process served upon or setoff exercised by a payor bank, whether or not effective under other rules of law to terminate, suspend or modify the bank's right or duty to pay an item or to charge its customer's account for the item, comes too late to so terminate, suspend or modify such right or duty if the knowledge, notice, stop-order or legal process is received or served and a reasonable time for the bank to act thereon expires or the setoff is exercised after the bank has done any of the following:

(a) accepted or certified the item;

(b) paid the item in cash;

(c) settled for the item without reserving a right to revoke the settlement and without having such right under statute, clearing house rule or agreement;

(d) completed the process of posting the item to the indicated account of the drawer, maker or other person to be charged therewith or otherwise has evidenced by examination of such indicated account and by action its decision to pay the item; or

(e) become accountable for the amount of the item under subsection (1) (d) of Section 4—213 and Section 4—302 dealing with the payor bank's responsibility for late return of items.

(2) Subject to the provisions of subsection (1) items may be accepted, paid, certified or charged to the indicated account of its customer in any order convenient to the bank.

## Part 4. Relationship Between Payor Bank And Its Customer

Section 4—401. *When Bank May Charge Customer's Account.* (1) As against its customer, a bank may charge against his account any item which is otherwise properly payable from that account even though the charge creates an overdraft.

(2) A bank which in good faith makes payment to a holder may charge the indicated account of its customer according to

(a) the orignal tenor of his altered item; or
(b) the tenor of his completed item, even though the bank knows the item has been completed unless the bank has notice that the completion was improper.

Section 4—402. *Bank's Liability to Customer for Wrongful Dishonor.* A payor bank is liable to its customers for damages proximately caused by the wrongful dishonor of an item. When the dishonor occurs through mistake liability is limited to actual damages proved. If so proximately caused and proved damages may include damages for an arrest or prosecution of the customer or other consequential damages. Whether any consequential damages are proximately caused by the wrongful dishonor is a question of fact to be determined in each case.

Section 4—403. *Customer's Right to Stop Payment; Burden of Proof of Loss.* (1) A customer may by order to his bank stop payment of any item payable for his account but the order must be received at such time and in such manner as to afford the bank a reasonable opportunity to act on it prior to any action by the bank with respect to the item described in Section 4—303.

(2) An oral order is binding upon the bank only for fourteen calendar days unless confirmed in writing within that period. A written order is effective for only six months unless renewed in writing.

(3) The burden of establishing the fact and amount of loss resulting from the payment of an item contrary to a binding stop payment order is on the customer.

Section 4—404. *Bank Not Obligated to Pay Check More Than Six Months Old.* A bank is under no obligation to a customer having a checking account to pay a check, other than a certified check, which is presented more than six months after its date, but it may charge its customer's account for a payment made thereafter in good faith.

Section 4—405. *Death or Incompetence of Customer.* (1) A payor or collecting bank's authority to accept, pay or collect an item or to account for proceeds of its collection if otherwise effective is not rendered ineffective by incompetence of a customer of either bank existing at the time the item is issued or its collection is undertaken if the bank does not know of an adjudication of incompetence. Neither death nor incompetence of a customer revokes such authority to accept, pay, collect or account until the bank knows of the fact of death or of an adjudication of incompetence and has reasonable opportunity to act on it.

(2) Even with knowledge a bank may for ten days after the date of death pay or certify checks drawn on or prior to that date unless ordered to stop payment by a person claiming an interest in the account.

Section 4—406. *Customer's Duty to Discover and Report Unauthorized Signature or Alteration.* (1) When a bank sends to its customer a statement of account accompanied by items paid in good faith in support of the debit entries or holds the statement and items pursuant to a request or instruction of its customer or otherwise in a reasonable manner makes the statement and items available to the customer, the customer must exercise reasonable care and promptness to examine the statement and items to discover his unauthorized signature or any alteration on an item and must notify the bank promptly after discovery thereof.

(2) If the bank establishes that the customer failed with respect to an item to comply with the duties imposed on the customer by subsection (1) the customer is precluded from asserting against the bank

(a) his unauthorized signature or any alteration on the item if the bank also establishes that it suffered a loss by reason of such failure; and

(b) An unauthorized signature or alteration by the same wrongdoer on any other item paid in good faith by the bank after the first item and statement was available to the customer for a reasonable period not exceeding fourteen calendar days and before the bank receives notification from the customer of any such unauthorized signature or alteration.

(3) The preclusion under subsection (2) does not apply if the customer establishes lack of ordinary care on the part of the bank in paying the item(*s*).

(4) Without regard to care or lack of care of either the customer or the bank a customer who does not within one year from the time the statement and items are made available to the customer (subsection (1) ) discover and report his unauthorized signature or any alteration on the face or back of the item or does not within three years from that time discover and report any unauthorized indorsement is precluded from asserting against the bank such unauthorized signature or indorsement or such alteration.

(5) If under this section a payor bank has a valid defense against a claim of a customer upon or resulting from payment of an item and waives or fails upon request to assert the defense the bank may not assert against any collecting bank or other prior party presenting or transferring the item a claim based upon the unauthorized signature or alteration giving rise to the customer's claim.

Section 4—407. *Payor Bank's Right to Subrogation on Improper Payment.* If a payor bank has paid an item over the stop payment order of the drawer or maker or otherwise under circumstances giving a basis for objection by the drawer or maker, to prevent unjust enrichment and only to the extent necessary to prevent loss to the bank by reason of its payment of the item, the payor bank shall be subrogated to the rights

(a) of any holder in due course on the item against the drawer or maker; and

(b) of the payee or any other holder of the item against the drawer or maker either on the item or under the transaction out of which the item arose; and

(c) of the drawer or maker against the payee or any other holder of the item with respect to the transaction out of which the item arose.

Part 5. Collection of Documentary Drafts

Section 4—501. *Handling of Documentary Drafts; Duty to Send for Presentment and to Notify Customer of Dishonor.* A bank which takes a documentary draft for collection must present or send the draft and accompanying documents for presentment and upon learning that the draft has not been paid or accepted in due course must seasonably notify its customer of such fact even though it may have discounted or bought the draft or extended credit available for withdrawal as of right.

Section 4—502. *Presentment of "On Arrival" Drafts.* When a draft or the relevant instructions require presentment "on arrival", "when goods arrive" or the like, the collecting bank need not present until in its judgment a reasonable time for arrival of the goods has expired. Refusal to pay or accept because the goods have not arrived is not dishonor; the bank must notify its transferor of such refusal but need not present the draft again until it is instructed to do so or learns of the arrival of the goods.

Section 4—503. *Responsibility of Presenting Bank for Documents and Goods; Report of Reasons for Dishonor; Referee in Case of Need.* Unless otherwise instructed and except as provided in Article 5 a bank presenting a documentary draft

(a) must deliver the documents to the drawee on acceptance of the draft if it is payable more than three days after presentment; otherwise, only on payment; and

(b) upon dishonor, either in the case of presentment for acceptance or presentment for payment, may seek and follow instructions from any referee in case of need designated in the draft or if the presenting bank does not choose to utilize his services it must use diligence

> and good faith to ascertain the reason for dishonor, must notify its transferor of the dishonor and of the results of its efforts to ascertain the reasons therefor and must request instructions.

But the presenting bank is under no obligation with respect to goods represented by the documents except to follow any reasonable instructions seasonably received; it has a right to reimbursement for any expense incurred in following instructions and to prepayment of or indemnity for such expenses.

Section 4—504. *Privilege of Presenting Bank to Deal With Goods; Security Interest for Expenses.* (1) A presenting bank which, following the dishonor of a documentary draft, has seasonably requested instructions but does not receive them within a reasonable time may store, sell, or otherwise deal with the goods in any reasonable manner.

(2) For its reasonable expenses incurred by action under subsection (1) the presenting bank has a lien upon the goods or their proceeds, which may be foreclosed in the same manner as an unpaid seller's lien.

## ARTICLE 5. LETTERS OF CREDIT

Section 5—101. *Short Title.* This Article shall be known and may be cited as Uniform Commercial Code—Letters of Credit.

Section 5—102. *Scope.* (1) This Article applies

(a) to a credit issued by a bank if the credit requires a documentary draft or a documentary demand for payment; and

(b) to a credit issued by a person other than a bank if the credit requires that the draft or demand for payment be accompanied by a document of title; and

(c) to a credit issued by a bank or other person if the credit is not within subparagraphs (a) or (b) but conspicuously states that it is a letter of credit or is conspicuously so entitled.

(2) Unless the engagement meets the requirements of subsection (1), this Article does not apply to engagements to make advances or to honor drafts or demands for payment, to authorities to pay or purchase, to guarantees or to general agreements.

(3) This Article deals with some but not all of the rules and concepts of letters of credit as such rules or concepts have developed prior to this act or may hereafter develop. The fact that this Article states a rule does not by itself require, imply or negate application of the same or a converse rule to a situation not provided for or to a person not specified by this Article.

Section 5–103. *Definitions.* (1) In this Article unless the context otherwise requires

(a) "Credit" or "letter of credit" means an engagement by a bank or other person made at the request of a customer and of a kind within the scope of this Article (Section 5–102) that the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the credit. A credit may be either revocable or irrevocable. The engagement may be either an agreement to honor or a statement that the bank or other person is authorized to honor.

(b) A "documentary draft" or a "documentary demand for payment" is one honor of which is conditioned upon the presentation of a document or documents. "Document" means any paper including document of title, security, invoice, certificate, notice of default and the like.

(c) An "issuer" is a bank or other person issuing a credit.

(d) A "beneficiary" of a credit is a person who is entitled under its terms to draw or demand payment.

(e) An "advising bank" is a bank which gives notification of the issuance of a credit by another bank.

(f) A "confirming bank" is a bank which engages either that it will itself honor a credit already issued by another bank or that such a credit will be honored by the issuer or a third bank.

(g) A "customer" is a buyer or other person who causes an issuer to issue a credit. The term also includes a bank which procures issuance or confirmation on behalf of that bank's customer.

(2) Other definitions applying to this Article and the sections in which they appear are:

| | |
|---|---|
| "Notation of Credit". | Section 5–108. |
| "Presenter". | Section 5–112(3). |

(3) Definitions in other Articles applying to this Article and the sections in which they appear are:

| | |
|---|---|
| "Accept" or "Acceptance". | Section 3–410. |
| "Contract for sale". | Section 2–106. |
| "Draft". | Section 3–104. |
| "Holder in due course". | Section 3–302. |
| "Midnight deadline". | Section 4–104. |
| "Security". | Section 8–102. |

(4) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Section 5–104. *Formal Requirements; Signing.* (1) Except as otherwise required in subsection (1)(c) of Section 5–102 on scope, no particular form of phrasing is required for a credit. A credit must be in writing and signed by the issuer and a confirmation must be in writing and signed by the confirming bank. A modification of the terms of a credit or confirmation must be signed by the issuer or confirming bank.

(2) A telegram may be a sufficient signed writing if it identifies its sender by an authorized authentication. The authentication may be in code and the authorized naming of the issuer in an advice of credit is a sufficient signing.

Section 5—105. *Consideration.* No consideration is necessary to establish a credit or to enlarge or otherwise modify its terms.

Section 5—106. *Time and Effect of Establishment of Credit.*

(1) Unless otherwise agreed a credit is established

(a) as regards the customer as soon as a letter of credit is sent to him or the letter of credit or an authorized written advice of its issuance is sent to the beneficiary; and

(b) As regards the beneficiary when he receives a letter of credit or an authorized written advice of its issuance.

(2) Unless otherwise agreed once an irrevocable credit is established as regards the customer it can be modifed or revoked only with the consent of the customer and once it is established as regards the beneficiary it can be modified or revoked only with his consent.

(3) Unless otherwise agreed after a revocable credit is established it may be modified or revoked by the issuer without notice to or consent from the customer or beneficiary.

(4) Notwithstanding any modification or revocation of a revocable credit any person authorized to honor or negotiate under the terms of the original credit is entitled to reimbursement for or honor of any draft or demand for payment duly honored or negotiated before receipt of notice of the modification or revocation and the issuer in turn is entitled to reimbursement from its customer.

Section 5—107. *Advice of Credit; Confirmation; Error in Statement of Terms.* (1) Unless other specified an advising bank by advising a credit issued by another bank does not assume any obligation to honor drafts drawn or demands for payment made under the credit but it does assume obligation for the accuracy of its own statement.

(2) A confirming bank by confirming a credit becomes directly obligated on the credit to the extent of its confirmation as though it were its issuer and acquires the rights of an issuer.

(3) Even though an advising bank incorrectly advises the terms of a credit it has been authorized to advise the credit is established as against the issuer to the extent of its original terms.

(4) Unless otherwise specified the customer bears as against the issuer all risks of transmission and reasonable translation or interpretation of any message relating to a credit.

Section 5—108. *"Notation Credit"; Exhaustion of Credit.* (1) A credit which specifies that any person purchasing or paying drafts drawn or demands for payment made under it must note the amount of the draft or demand on the letter or advice of credit is a "notation of credit."

(2) Under a notation credit

(a) a person paying the beneficiary or purchasing a draft or demand for payment from him acquires a right to honor only if the appropriate notation is made and by transferring or forwarding for honor the documents under the credit such a person warrants to the issuer that the notation has been made; and

(b) unless the credit or a signed statement that an appropriate notation has been made accompanies the draft or demand for payment the issuer may delay honor until evidence of notation has been procured which is satisfactory to it but its obligation and that of its customer continue for a reasonable time not exceeding thirty days to obtain such evidence.

(3) If the credit is not a notation credit

(a) the issuer may honor complying drafts or demands for payment presented to it in the order in which they are presented and is discharged pro tanto by honor of any such draft or demand;

(b) as between competing good faith purchasers of complying drafts or demands the person first purchasing has priority over a subsequent purchaser even though the later purchased draft or demand has been first honored.

Section 5—109. *Issuer's Obligation to Its Customer.* (1) An issuer's obligation to its customer includes good faith and observance of any general banking usage but unless otherwise agreed does not include liability or responsibility

(a) for performance of the underlying contract for sale or other transaction between the customer and the beneficiary; or

(b) for any act or omission of any person other than itself or its own branch or for loss or destruction of a draft, demand or document in transit or in the possession of others; or

(c) based on knowledge or lack of knowledge of any usage of any particular trade.

(2) An issuer must examine documents with care so as to ascertain that on their face they appear to comply with the terms of

the credit but unless otherwise agreed assumes no liability or responsibility for the genuineness, falsification or effect of any document which appears on such examinaton to be regular on its face.

(3) A non-bank issuer is not bound by any banking usage of which it has no knowledge.

Section 5—110. *Availability of Credit in Portions; Presenter's Reservation of Lien or Claim.* (1) Unless otherwise specified a credit may be used in portions in the discretion of the beneficiary.

(2) Unless otherwise specified a person by presenting a documentary draft or demand for payment under a credit relinquishes upon its honor all claims to the documents and a person by transferring such draft or demand or causing such presentment authorizes such relinquishment. An explicit reservation of claim makes the draft or demand non-complying.

Section 5—111. *Warranties on Transfer and Presentment.* (1) unless otherwise agreed the beneficiary by transferring or presenting a documentary draft or demand for payment warrants to all interested parties that the necessary conditions of the credit have been complied with. This is in addition to any warranties arising under Articles 3, 4, 7 and 8.

(2) Unless otherwise agreed a negotiating, advising, confirming, collecting or issuing bank presenting or transferring a draft or demand for payment under a credit warrants only the matters warranted by a collecting bank under Article 4 and any such bank transferring a document warrants only the matters warranted by an intermediary under Articles 7 and 8.

Section 5—112. *Time Allowed for Honor or Rejection; Withholding Honor or Rejection by Consent; "Presenter".* (1) A bank to which a documentary draft or demand for payment is presented under a credit may without dishonor of the draft, demand or credit

(a) defer honor until the close of the third banking day following receipt of the documents; and

(b) further defer honor if the presenter has expressly or impliedly consented thereto.

Failure to honor within the time here specified constitutes dishonor of the draft or demand and of the credit.

(2) Upon dishonor the bank may unless otherwise instructed fulfill its duty to return the draft or demand and the documents by holding them at the disposal of the presenter and sending him an advice to that effect.

(3) "Presenter" means any person presenting a draft or demand for payment for honor under a credit even though that person is a confirming bank or other correspondent which is acting under an issuer's authorization.

Section 5–113. *Indemnities.* (1) A bank seeking to obtain (whether for itself or another) honor, negotiation or reimbursement under a credit may give an indemnity to induce such honor, negotiation or reimbursement.

(2) An indemnity agreement inducing honor, negotiation or reimbursement

(a) unless otherwise explicitly agreed applies to defects in the documents but not in the goods; and

(b) unless a longer time is explicitly agreed expires at the end of ten business days following receipt of the documents by the ultimate customer unless notice of objection is sent before such expiration date. The ultimate customer may send notice of objection to the person from whom he received the documents and any bank receiving such notice is under a duty to send notice to its transferor before its midnight deadline.

Section 5–114. *Issuer's Duty and Privilege to Honor; Right to Reimbursement.* (1) An issuer must honor a draft or demand for payment which complies with the terms of the relevant credit regardless of whether the goods or documents conform to the underlying contract for sale or other contract between the customer and the beneficiary. The issuer is not excused from honor of such a draft or demand by reason of an additional general term that all documents must be satisfactory to the issuer, but an issuer may require that specified documents must be satisfactory to it.

(2) Unless otherwise agreed when documents appear on their face to comply with the terms of a credit but a required document does not in fact conform to the warranties made on negotiation or transfer of a document of title (Section 7–507) or of a security (Section 8–306) or is forged or fraudulent or there is fraud in the transaction

(a) the issuer must honor the draft or demand for payment if honor is demanded by a negotiating bank or other holder of the draft or demand which has taken the draft or demand under the credit and under circumstances which would make it a holder in due course (Section 3–302) and in an appropriate case would make it a person to whom a document of title has been duly negotiated (Section 7–502) or a bona fide purchaser of a security (Section 8–302); and

(b) in all other cases as against its customer, an issuer acting in good faith may honor the draft or demand for payment despite notification from the customer of fraud, forgery or other defect not apparent on the face of the documents but a court of appropriate jurisdiction may enjoin such honor.

(3) Unless otherwise agreed an issuer which has duly honored a draft or demand for payment is entitled to immediate reimbursement of any payment made under the credit and to be put in effectively available funds not later than the day before maturity of any acceptance made under the credit.

Section 5–115. *Remedy for Improper Dishonor or Anticipatory Repudiation.* (1) When an issuer wrongfully dishonors a draft or demand for payment presented under a credit the person entitled to honor has with respect to any documents the rights of a person in the position of a seller (Section 2–707) and may recover from the issuer the face amount of the draft or demand together with incidental damages under Section 2–710 on seller's incidental damages and interest but less any amount realized by resale or other use or disposition of the subject matter of the transaction. In the event no resale or other utilization is made the documents, goods or other subject matter involved in the transaction must be turned over to the issuer on payment of judgment.

(2) When an issuer wrongfully cancels or otherwise repudiates a credit before presentment of a draft or demand for payment drawn under it the beneficiary has the rights of a seller after anticipatory repudiation by the buyer under Section 2–610 if he learns of the repudiation in time reasonably to avoid procurement of the required documents. Otherwise the beneficiary has an immediate right of action for wrongful dishonor.

Section 5–116. *Transfer and Assignment.* (1) The right to draw under a credit can be transferred or assigned only when the credit is expressly designated as transferable or assignable.

(2) Even though the credit specifically states that it is nontransferable or nonassignable the beneficiary may before performance of the conditions of the credit assign his right to proceeds. Such an assignment is an assignment of a contract right under Article 9 on Secured Transactions and is governed by that Article except that

(a) the assignment is ineffective until the letter of credit or advice of credit is delivered to the assignee which delivery constitutes perfection of the security interest under Article 9; and

(b) the issuer may honor drafts or demands for payment drawn under the credit until it receives a notification of the assignment signed by the beneficiary which reasonably identifies the credit involved in the assignment and contains a request to pay the assignee; and

(c) after what reasonably appears to be such a notification has been received the issuer may without dishonor refuse to accept or pay even to a person otherwise entitled to honor until the letter of credit or advice of credit is exhibited to the issuer.

(3) Except where the beneficiary has effectively assigned his right to draw or his right to proceeds, nothing in this section limits his right to transfer or negotiate drafts or demands drawn under the credit.

Section 5–117. *Insolvency of Bank Holding Funds for Documentary Credit.* (1) Where an issuer or an advising or confirming bank or a bank which has for a customer procured issuance of a credit by another bank becomes insolvent before final payment under the credit and the credit is one to which this Article is made applicable by paragraphs (a) or (b) of Section 5–102(1) on scope, the receipt or allocation of funds or collateral to secure or meet obligations under the credit shall have the following results:

(a) to the extent of any funds or collateral turned over after or before the insolvency as indemnity against or specifically for the purpose of payment of drafts or demands for payment drawn under the designated credit, the drafts or demands are entitled to payment in preference over depositors or other general creditors of the issuer or bank; and

(b) on expiration of the credit or surrender of the beneficiary's rights under it unused any person who has given such funds or collateral is similarly entitled to return thereof; and

(c) a charge to a general or current account with a bank if specifically consented to for the purpose of indemnity against or payment of drafts or demands for payment drawn under the designated credit falls under the same rules as if the funds had been drawn out in cash and then turned over with specific instructions.

(2) After honor or reimbursement under this section the customer or other person for whose account the insolvent bank has acted is entitled to receive the documents involved.

## ARTICLE 6. BULK TRANSFERS

Section 6–101. *Short Title.* This Article shall be known and may be cited as Uniform Commercial Code–Bulk Transfers.

Section 6–102. *"Bulk Transfer"; Transfers of Equipment; Enterprises Subject to This Article; Bulk Transfers Subject to This Article.* (1) A "bulk transfer" is any transfer in bulk and not in the ordinary course of the transferor's business of a major part of the materials, supplies, merchandise or other inventory (Section 9–109) of an enterprise subject to this Article.

(2) A transfer of a substantial part of the equipment (Section 9–109) of such an enterprise is a bulk transfer if it is made in connection with a bulk transfer of inventory, but not otherwise.

(3) The enterprises subject to this Article are all those whose principal business is the sale of merchandise from stock, including those who manufacture what they sell.

(4) Except as limited by the following section all bulk transfers of goods located within this state are subject to this Article.

Section 6—103. *Transfers Excepted From This Article.* The following transfers are not subject to this Article:

(1) Those made to give security for the performance of an obligation;

(2) General assignments for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder;

(3) Transfers in settlement or realization of a lien or other security interests;

(4) Sales by executors, administrators, receivers, trustees in bankruptcy, or any public offer under judicial process;

(5) Sales made in the course of judicial or administrative proceedings for the dissolution or reorganization of a corporation and of which notice is sent to the creditors of the corporation pursuant to order of the court or administrative agency;

(6) Transfers to a person maintaining a known place of business in this State who becomes bound to pay the debts of the transferor in full and gives public notice of that fact, and who is solvent after becoming so bound;

(7) A transfer to a new business enterprise organized to take over and continue the business, if public notice of the transaction is given and the new enterprise assumes the debts of the transferor and he receives nothing from the transaction except an interest in the new enterprise junior to the claims of creditors;

(8) Transfers of property which is exempt from execution.

Section 6—104. *Schedule of Property, List of Creditors.* (1) Except as provided with respect to auction sales (Section 6—108), a bulk transfer subject to this Article is ineffective against any creditor of the transferor unless:

(a) The transferee requires the transferor to furnish a list of his existing creditors prepared as stated in this section; and

(b) The parties prepare a schedule of the property transferred sufficient to identify it; and

(c) The transferee preserves the list and schedule for six months next following the transfer and permits inspection of either or both and copying therefrom at all reasonable hours by any creditor of the transferor, or files the list and schedule in the office of the county court clerk.

(2) The list of creditors must be signed and sworn to or affirmed by the transferor or his agent. It must contain the names and business addresses of all creditors of the transferor, with the amounts when

known, and also the names of all persons who are known to the transferor to assert claims against him even though such claims are disputed.

(3) Responsibility for the completeness and accuracy of the list of creditors rests on the transferor, and the transfer is not rendered ineffective by errors or omissions therein unless the transferee is shown to have had knowledge.

Section 6—105. *Notice to Creditors.* In addition to the requirements of the preceding section, any bulk transfer subject to this Article except one made by auction sale (Section 6—108) is ineffective against any creditor of the transferor unless at least ten days before he takes possession of the goods or pays for them, whichever happens first, the transferee gives notice of the transfer in the manner and to the persons hereafter provided (Section 6—107).

Section 6—106. *Application of the Proceeds.* In addition to the requirements of the two preceding sections:

(1) Upon every bulk transfer subject to this Article for which new consideration becomes payable except those made by sale at auction it is the duty of the transferee to assure that such consideration is applied so far as necessary to pay those debts of the transferor which are either shown on the list furnished by the transferor (Section 6—104) or filed in writing in the place stated in the notice (Section 6—107) within thirty days after the mailing of such notice. This duty of the transferee runs to all the holders of such debts, and may be enforced by any of them for the benefit of all.

(2) If any of said debts are in dispute the necessary sum may be withheld from distribution until the dispute is settled or adjudicated.

(3) If the consideration payable is not enough to pay all of the said debts in full distribution shall be made pro rata.

Section 6—107. *The Notice.* (1) The notice to creditors (Section 6—105) shall state:

(a) That a bulk transfer is about to be made; and

(b) The names and business addresses of the transferor and transferee, and all other business names and addresses used by the transferor within three years last past so far as known to the transferee; and

(c) whether or not all the debts of the transferor are to be paid in full as they fall due as a result of the transaction, and if so, the address to which creditors should send their bills.

(2) If the debts of the transferor are not to be paid in full as they fall due or if the transferee is in doubt on that point then the notice shall state further:

(a) the location and general description of the property to be transferred and the estimated total of the transferor's debts;
(b) the address where the schedule of property and list of creditors (Section 6–104) may be inspected;
(c) whether the transfer is to pay existing debts and if so the amount of such debts and to whom owing;
(d) whether the transfer is for new consideration and if so the amount of such consideration and the time and place of payment; and
(e) if for new consideration the time and place where creditors of the transferor are to file their claims.

(3) The notice in any case shall be delivered personally or sent by registered mail to all the persons shown on the list of creditors furnished by the transferor (Section 6–104) and to all other persons who are known to the transferee to hold or assert claims against the transferor.

Section 6–108. *Auction Sales; "Auctioneer".* (1) A bulk transfer is subject to this Article even though it is by sale at auction, but only in the manner and with the results stated in this section.

(2) The transferor shall furnish a list of his creditors and assist in the preparation of a schedule of the property to be sold, both prepared as before stated (Section 6–104).

(3) The person or persons other than the transferor who direct, control or are responsible for the auction are collectively called the "auctioneer". The auctioneer shall:
(a) receive and retain the list of creditors and prepare and retain the schedule of property for the period stated in this Article (Section 6–104);
(b) give notice of the auction personally or by registered mail at least ten days before it occurs to all persons shown on the list of creditors and to all other persons who are known to him to hold or assert claims against the transferor; and
(c) assure that the net proceeds of the auction are applied as provided in this Article (Section 6–106).

(4) Failure of the auctioneer to perform any of these duties does not affect the validity of the sale or the title of the purchasers, but if the auctioneer knows that the auction constitutes a bulk transfer such failure renders the auctioneer liable to the creditors of the transferor as a class for the sums owing to them from the transferor up to but not exceeding the net proceeds of the auction. If the auctioneer consists of several persons their liability is joint and several.

Section 6–109. *What Creditors Protected.* (1) The creditors of the transferor mentioned in this Article are those holding claims based on transactions or events occurring before the bulk transfer, but creditors who become such after notice to creditors is given (Sections 6—105 and 6—107) are not entitled to notice.

(2) Against the aggregate obligation imposed by the provisions of this Article concerning the application of the proceeds (Section 6—106 and subsection (3)(c) of 6—108) the transferee or auctioneer is entitled to credit for sums paid to particular creditors of the transferor, not exceeding the sums believed in good faith at the time of the payment to be properly payable to such creditors.

Section 6—110. *Subsequent Transfers.* When the title of a transferee to property is subject to a defect by reason of his non-compliance with the requirements of this Article, then:

(1) a purchaser of any of such property from such transferee who pays no value or who takes with notice of such non-compliance takes subject to such defect, but

(2) a purchaser for value in good faith and without such notice takes free of such defect.

Section 6—111. *Limitation of Actions and Levies.* No action under this Article shall be brought nor levy made more than six months after the date on which the transferee took possession of the goods unless the transfer has been concealed. If the transfer has been concealed, actions may be brought or levies made within six months after its discovery.

## ARTICLE 7. WAREHOUSE RECEIPTS, BILLS OF LADING AND OTHER DOCUMENTS OF TITLE

### Part 1. General

Section 7—101. *Short Title.* This Article shall be known and may be cited as Uniform Commercial Code—Documents of Title.

Section 7—102. *Definitions and Index of Definitions.* (1) In this Article, unless the context otherwise requires:

(a) "Bailee" means the person who by a warehouse receipt, bill of lading or other document of title acknowledges possession of goods and contracts to deliver them.

(b) "Consignee" means the person named in a bill to whom or to whose order the bill promises delivery.

(c) "Consignor" means the person named in a bill as the person from whom the goods have been received for shipment.

(d) "Delivery order" means a written order to deliver goods directed to a warehouseman, carrier or other person who in the ordinary course of business issues warehouse receipts or bills of lading.

(e) "Document" means document of title as defined in the general definitions in Article 1 (Section 1—201).

(f) "Goods" means all things which are treated as movable for the purposes of a contract of storage or transportation.

(g) "Issuer" means a bailee who issues a document except that in relation to an unaccepted delivery order it means the person who orders the possessor of goods to deliver. Issuer includes any person for whom an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, notwithstanding that the issuer received no goods or that the goods were misdescribed or that in any other respect the agent or employee violated his instructions.

(h) "Warehouseman" is a person engaged in the business of storing goods for hire.

(2) Other definitions applying to this Article or to specified Parts thereof, and the sections in which they appear are:

"Duly negotiate". Section 7–501.
"Person entitled under the document". Section 7–403(4).

(3) Definitions in other Articles applying to this Article and the sections in which they appear are:

"Contract for sale". Section 2–106.
"Overseas". Section 2–323.
"Receipt" of goods. Section 2–103.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Section 7–103. *Relation of Article to Treaty, Statute, Tariff, Classification or Regulation.* To the extent that any treaty or statute of the United States, regulatory statute of his State or tariff, classification or regulation filed or issued pursuant thereto is applicable, the provisions of this Article are subject thereto.

Section 7–104. *Negotiable and Non-Negotiable Warehouse Receipt, Bill of Lading or Other Document of Title.* (1) A warehouse receipt, bill of lading or other document of title is negotiable

(a) if by its terms the goods are to be delivered to bearer or to the order of a named person; or

(b) where recognized in overseas trade, if it runs to a named person or assigns.

(2) Any other document is non-negotiable. A bill of lading in which it is stated that the goods are consigned to a named person is not made negotiable by a provision that the goods are to be delivered only against a written order signed by the same or another named person.

Section 7–105. *Construction Against Negative Implication.* The omission from either Part 2 or Part 3 of this Article of a provision corresponding to a provision made in the other Part does not imply that a corresponding rule of law is not applicable.

Part 2. Warehouse Receipts: Special Provisions

Section 7–201. *Who May Issue a Warehouse Receipt; Storage Under Government Bond.* (1) A warehouse receipt may be issued by any warehouseman.

(2) Where goods including distilled spirits and agricultural commodities are stored under a statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature of warehouse receipts, a receipt issued for the goods has like effect as a warehouse receipt even though issued by a person who is the owner of the goods and is not a warehouseman.

Section 7–202. *Form of Warehouse Receipt; Essential Terms; Optional Terms.* (1) A warehouse receipt need not be in any particular form.

(2) Unless a warehouse receipt embodies within its written or printed terms each of the following, the warehouseman is liable for damages caused by the omission to a person injured thereby:

(a) the location of the warehouse where the goods are stored;

(b) the date of issue of the receipt;

(c) the consecutive number of the receipt;

(d) a statement whether the goods received will be delivered to the bearer, to a specified person, or to a specified person or his order;

(e) the rate of storage and handling charges, except that where goods are stored under a field warehousing arrangement a statement of that fact is sufficient on a non-negotiable receipt;

(f) a description of the goods or of the packages containing them;

(g) the signature of the warehouseman, which may be made by his authorized agent;

(h) if the receipt is issued for goods of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership; and

(i) a statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien or security interest (Section 7–209). If the precise amount of such advances made or of such liabilities incurred is, at the time of the issue of the receipt, unknown to the warehouseman or to his agent who issues it, a statement of the fact that advances have been made or liablities incurred and the purpose thereof is sufficient.

(3) A warehouseman may insert in his receipt any other terms which are not contrary to the provisions of this Act and do not impair his obligation of delivery (Section 7–403) or his duty of care (Section 7–204). Any contrary provisions shall be ineffective.

Section 7–203. *Liability for Non-Receipt or Misdescription.* A party to or purchaser for value in good faith of a document of title other than a bill of lading relying in either case upon the description therein of the goods may recover from the issuer damages caused by the non-receipt or misdescription of the goods, except to the extent that the document conspicuously indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, as where the description is in terms of marks or labels or kind, quantity or condition, or the receipt or description is qualified by "contents, condition and quality unknown", "said to contain" or the like, if such indication be true, or the party or purchaser otherwise has notice.

Section 7–204. *Duty of Care; Contractual Limitation of Warehouseman's Liability.* (1) A warehouseman is liable for damages for loss of or injury to the goods cause by his failure to exercise such care in regard to them as a reasonably careful man would exercise under like circumstances but unless otherwise agreed he is not liable for damages which could not have been avoided by the exercise of such care.

(2) Damages may be limited by a term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage, and setting forth a specifc liability per article or item, or value per unit of weight, beyond which the warehouseman shall not be liable; provided, however, that such liability may on written request of the bailor at the time of signing such storage agreement or within a reasonable time after receipt of the warehouse receipt be increased on part or all of the goods thereunder, in which event increased rates may be charged based on such increased valuation, but that no such increase shall be permitted contrary to a lawful limitation of liability contained in the warehouseman's tariff, if any. No such limitation is effective with respect to the warehouseman's liability for conversion to his own use.

(3) Reasonable provisions as to the time and manner of presenting claims and instituting actions based on the bailment may be included in the warehouse receipt or tariff.

(4) This section does not impair or repeal . . .

Section 7–205. *Title Under Warehouse Receipt Defeated in Certain Cases.* A buyer in the ordinary course of business of fungible goods sold and delivered by a warehouseman who is also in the business of buying and selling such goods takes free of any claim under a warehouse receipt even though it has been duly negotiated.

Section 7–206. *Termination of Storage at Warehouseman's Option.* (1) A warehouseman may on notifying the person on whose account the goods are held and any other person known to claim an interest in the goods require payment of any charges and removal of the goods from the warehouse at the termination of the period of storage fixed by the document, or, if no period is fixed, within a stated period not less than thirty days after the notification. If the goods are not removed before the date specified in the notification, the warehouseman may sell them in accordance with the provisions of the section on enforcement of a warehouseman's lien (Section 7–210).

(2) If a warehouseman in good faith believes that the goods are about to deteriorate or decline in value to less than the amount of his lien within the time prescribed in subsection (1) for notification, advertisement and sale, the warehouseman may specify in the notification any reasonable shorter time for removal of the goods and in case the goods are not removed, may sell them at public sale held not less than one week after a single advertisement or posting.

(3) If as a result of a quality or condition of the goods of which the warehouseman had no notice at the time of deposit the goods are a hazard to other property or to the warehouse or to persons, the warehouseman may sell the goods at public or private sale without advertisement on reasonable notification to all persons known to claim an interest in the goods. If the warehouseman after a reasonable effort is unable to sell the goods he may dispose of them in any lawful manner and shall incur no liability by reason of such disposition.

(4) The warehouseman must deliver the goods to any person entitled to them under this Article upon due demand made at any time prior to sale or other disposition under this section.

(5) The warehouseman may satisfy his lien from the proceeds of any sale or disposition under this section but must hold the balance for delivery on the demand of any person to whom he would have been bound to deliver the goods.

Section 7–207. *Goods Must Be Kept Separate; Fungible Goods.* (1) Unless the warehouse receipt otherwise provides, a warehouseman must keep separate the goods covered by each receipt so as to permit at all times identification and delivery of those goods except that different lots of fungible goods may be commingled.

(2) Fungible goods so commingled are owned in common by the persons entitled thereto and the warehouseman is severally liable to each owner for that owner's share. Where because of overissue a

mass of fungible goods is insufficient to meet all the receipts which the warehouseman has issued against it, the persons entitled include all holders to whom overissued receipts have been duly negotiated.

Section 7—208. *Altered Warehouse Receipts.* Where a blank in a negotiable warehouse receipt has been filled in without authority, a purchaser for value and without notice of the want of authority may treat the insertion as authorized. Any other unauthorized alteration leaves any receipt enforceable against the issuer according to its original tenor.

Section 7—209. *Lien of Warehouseman.* (1) A warehouseman has a lien against the bailor on the goods covered by a warehouse receipt or on the proceeds thereof in his possession for charges for storage or transportation (including demurrage and terminal charges), insurance, labor, or charges present or future in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law. If the person on whose account the goods are held is liable for like charges or expenses in relation to other goods whenever deposited and it is stated in the receipt that a lien is claimed for charges and expenses in relation to other goods, the warehouseman also has a lien against him for such charges and expenses whether or not the other goods have been delivered by the warehouseman. But against a person to whom a negotiable warehouse receipt is duly negotiated a warehouseman's lien is limited to charges in an amount or at a rate specified on the receipt or if no charges are so specified then to a reasonable charge for storage of the goods covered by the receipt subsequent to the date of the receipt.

(2) The warehouseman may also reserve a security interest against the bailor for a maximum amount specified on the receipt for charges other than those specified in subsection (1), such as for money advanced and interest. Such a security interest is governed by the Article on Secured Transactions (Article 9).

(3) A warehouseman's lien for charges and expenses under subsection (1) or a security interest under subsection (2) is also effective against any person who so entrusted the bailor with possession of the goods that a pledge of them by him to a good faith purchaser for value would have been valid but is not effective against a person as to whom the document confers no right in the goods covered by it under Section 7—503.

(4) A warehouseman loses his lien on any goods which he voluntarily delivers or which he unjustifiably refuses to deliver.

Section 7—210. *Enforcement of Warehouseman's Lien.* (1) Except as provided in subsection (2), a warehouseman's lien may be enforced by public or private sale of the goods in bloc or in parcels, at any time or place and on any terms which are commercially reasonable, after notifying all persons known to claim an interest in the goods. Such notification must include a statement of the amount due, the nature of the proposed sale and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the warehouseman is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the warehouseman either sells the goods in the usual manner in any recognized market therefor, or if he sells at the price current in such market at the time of his sale, or if he has otherwise sold in conformity with commercially reasonable practices among dealers in the type of goods sold, he has sold in a commercially reasonable manner. A sale of more goods than apparently necessary to be offered to insure satisfaction of the obligation is not commercially reasonable except in cases covered by the preceding sentence.

(2) A warehouseman's lien on goods other than goods stored by a merchant in the course of his business may be enforced only as follows:

(a) All persons known to claim an interest in the goods must be notified.

(b) The notification must be delivered in person or sent by registered letter to the last known address of any person to be notified.

(c) The notification must include an itemized statement of the claim, a description of the goods subject to the lien, a demand for payment within a specified time not less than ten days after receipt of the notification, and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place.

(d) The sale must conform to the terms of the notification.

(e) The sale must be held at the nearest suitable place to that where the goods are held or stored.

(f) After the expiration of the time given in the notification, an advertisement of the sale must be published once a week for two weeks consecutively in a newspaper of general circulation where the sale is to be held. The advertisement must include a description of the goods, the name of the person on whose account they are being held, and the time and place of the sale. The sale must take place at least fifteen days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement must be posted at least ten days before the sale in not less than six conspicuous places in the neighborhood of the proposed sale.

(3) Before any sale pursuant to this section any person claiming a right in the goods may pay the amount necessary to satisfy the

lien and the reasonable expenses incurred under this section. In that event the goods must not be sold, but must be retained by the warehouseman subject to the terms of the receipt and this Article.

(4) The warehouseman may buy at any public sale pursuant to this section.

(5) A purchaser in good faith of goods sold to enforce a warehouseman's lien takes the goods free of any rights of persons against whom the lien was valid, despite noncompliance by the warehouseman with the requirements of this section.

(6) The warehouseman may satisfy his lien from the proceeds of any sale pursuant to this section but must hold the balance, if any, for delivery on demand to any person to whom he would have been bound to deliver the goods.

(7) The rights provided by this section shall be in addition to all other rights allowed by law to a creditor against his debtor.

(8) Where a lien is on goods stored by a merchant in the course of his business the lien may be enforced in accordance with either subsection (1) or (2).

(9) The warehouseman is liable for damages caused by failure to comply with the requirements for sale under this section and in case of willful violation is liable for conversion.

Part 3. Bills of Lading: Special Provisions

Section 7—301. *Liability for Non-Receipt or Misdescription; "Said to Contain"; "Shipper's Load and Count"; Improper Handling.* (1) A consignee of a non-negotiable bill who has given value in good faith or a holder to whom a negotiable bill has been duly negotiated relying in either case upon the description therein of the goods, or upon the date therein shown, may recover from the issuer damages caused by the misdating of the bill or the non-receipt or misdescription of the goods, except to the extent that the document indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, as where the description is in terms of marks or labels or kind, quantity, or condition or the receipt or description is qualified by "contents or condition of contents of packages unknown", "said to contain", "shipper's weight, load and count" or the like, if such indication be true.

(2) When goods are loaded by an issuer who is a common carrier, the issuer must count the packages of goods if package freight and ascertain the kind and quantity if bulk freight. In such cases "shipper's weight, load and count" or other words indicating that the description was made by the shipper are ineffective except as to freight concealed by packages.

(3) When bulk freight is loaded by a shipper who makes available to the issuer adequate facilities for weighing such freight, an issuer who is a common carrier must ascertain the kind and quantity

within a reasonable time after receiving the written request of the shipper to do so. In such cases "shipper's weight" or other words of like purport are ineffective.

(4) The issuer may by inserting in the bill the words "shipper's weight, load and count" or other words of like purport indicate that the goods were loaded by the shipper; and if such statement be true the issuer shall not be liable for damages caused by the improper loading. But their omission does not imply liability for such damages.

(5) The shipper shall be deemed to have guaranteed to the issuer the accuracy at the time of shipment of the description, marks, labels, number, kind, quantity, condition and weight, as furnished by him; and the shipper shall indemnify the issuer against damages caused by inaccuracies in such particulars. The right of the issuer to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.

Section 7—302. *Through Bills of Lading and Similar Documents.* (1) The issuer of a through bill of lading or other document embodying an undertaking to be performed in part by persons acting as its agents or by connecting carriers is liable to anyone entitled to recover on the document for any breach by such other persons or by a connecting carrier of its obligation under the document but to the extent that the bill covers an undertaking to be performed overseas or in territory not contiguous to the continental United States or an undertaking including matters other than transportation this liability may be varied by agreement of the parties.

(2) Where goods covered by a through bill of lading or other document embodying an undertaking to be performed in part by persons other than the issuer are received by any such person, he is subject with respect to his own performance while the goods are in his possession to the obligation of the issuer. His obligation is discharged by delivery of the goods to another such person pursuant to the document, and does not include liability for breach by any other such persons or by the issuer.

(3) The issuer of such through bill of lading or other document shall be entitled to recover from the connecting carrier or such other person in possession of the goods when the breach of the obligation under the document occurred, the amount it may be required to pay to anyone entitled to recover on the document therefor, as may be evidenced by any receipt, judgment, or transcript thereof, and the amount of any expense reasonably incurred by it in defending any action brought by anyone entitled to recover on the document therefor.

Section 7—303. *Diversion; Reconsignment; Change of Instructions.* (1) Unless the bill of lading otherwise provides, the carrier may deliver the goods to a person or destination other than that stated in the bill or may otherwise dispose of the goods on instructions from

(a) the holder of a negotiable bill; or

(b) the consignor on a non-negotiable bill notwithstanding contrary instructions from the consignee; or

(c) the consignee on a non-negotiable bill in the absence of contrary instructions from the consignor, if the goods have arrived at the billed destination or if the consignee is in possession of the bill; or

(d) the consignee on a non-negotiable bill if he is entitled as against the consignor to dispose of them.

(2) Unless such instructions are noted on a negotiable bill of lading, a person to whom the bill is duly negotiated can hold the bailee according to the original terms.

Section 7—304. *Bills of Lading in a Set.* (1) Except where customary in overseas transportation, a bill of lading must not be issued in a set of parts. The issuer is liable for damages caused by violation of this subsection.

(2) Where a bill of lading is lawfully drawn in a set of parts, each of which is numbered and expressed to be valid only if the goods have not been delivered against any other part, the whole of the parts constitute one bill.

(3) Where a bill of lading is lawfully issued in a set of parts and different parts are negotiated to different persons, the title of the holder to whom the first due negotiation is made prevails as to both the document and the goods even though any later holder may have received the goods from the carrier in good faith and discharged the carrier's obligation by surrender of his part.

(4) Any person who negotiates or transfers a single part of a bill of lading drawn in a set is liable to holders of that part as if it were the whole set.

(5) The bailee is obliged to deliver in accordance with Part 4 of this Article against the first presented part of a bill of lading lawfully drawn in a set. Such delivery discharges the bailee's obligation on the whole bill.

Section 7—305. *Destination Bills.* (1) Instead of issuing a bill of lading to the consignor at the place of shipment a carrier may at the request of the consignor procure the bill to be issued at destination or at any other place designated in the request.

(2) Upon request of anyone entitled as against the carrier to control the goods while in transit and on surrender or any outstanding bill of lading or other receipt covering such goods, the issuer may procure a substitute bill to be issued at any place designated in the request.

Section 7—306. *Altered Bills of Lading.* An unauthorized alteration or filling in of a blank in a bill of lading leaves the bill enforceable according to its original tenor.

Section 7—307. *Lien of Carrier.* (1) A carrier has a lien on the goods covered by a bill of lading for charges subsequent to the date of its receipt of the goods for storage or transportation (including demurrage and terminal charges) and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to law. But against a purchaser for value of a negotiable bill of lading a carrier's lien is limited to charges stated in the bill or the applicable tariffs, or if no charges are stated then to a reasonable charge.

(2) A lien for charges and expenses under subsection (1) on goods which the carrier was required by law to receive for transportation is effective against the consignor or any person entitled to the goods unless the carrier had notice that the consignor lacked authority to subject the goods to such charges and expenses. Any other lien under subsection (1) is effective against the consignor and any person who permitted the bailor to have control or possession of the goods unless the carrier had notice that the bailor lacked such authority.

(3) A carrier loses his lien on any goods which he voluntarily delivers or which he unjustifiably refuses to deliver.

Section 7—308. *Enforcement of Carrier's Lien.* (1) A carrier's lien may be enforced by public or private sale of the goods, in bloc or in parcels, at any time or place and on any terms which are commercially reasonable, after notifying all persons known to claim an interest in the goods. Such notification must include a statement of the amount due, the nature of the proposed sale and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the carrier is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the carrier either sells the goods in the usual manner in any recognized market therefor or if he sells at the price current in such market at the time of his sale or if he has otherwise sold in conformity with commercially reasonable practices among dealers in the type of goods sold he has sold in a commercially reasonable manner. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable except in cases covered by the preceding sentence.

(2) Before any sale pursuant to this section any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section. In that event the goods must not be sold, but must be retained by the carrier subject to the terms of the bill and this Article.

(3) The carrier may buy at any public sale pursuant to this section.

(4) A purchaser in good faith of goods sold to enforce a carrier's

lien takes the goods free of any rights of persons against whom the lien was valid, despite noncompliance by the carrier with the requirements of this section.

(5) The carrier may satisfy his lien from the proceeds of any sale pursuant to this section but must hold the balance, if any, for delivery on demand to any person to whom he would have been bound to deliver the goods.

(6) The rights provided by this section shall be in addition to all other rights allowed by law to a creditor against his debtor.

(7) A carrier's lien may be enforced in accordance with either subsection (1) or the procedure set forth in subsection (2) of Section 7–210.

(8) The carrier is liable for damages caused by failure to comply with the requirements for sale under this section and in case of willful violation is liable for conversion.

Section 7–309. *Duty of Care; Contractual Limitation of Carrier's Liability.* (1) A carrier who issues a bill of lading whether negotiable or non-negotiable must exercise the degree of care in relation to the goods which a reasonably careful man would exercise under like circumstances. This subsection does not repeal or change any law or rule of law which imposes liability upon a common carrier for damages not caused by its negligence.

(2) Damages may be limited by a provision that the carrier's liability shall not exceed a value stated in the document if the carrier's rates are dependent upon value and the consignor by the carrier's tariff is afforded an opportunity to declare a higher value or a value as lawfully provided in the tariff, or where no tariff is filed he is otherwise advised of such opportunity; but no such limitation is effective with respect to the carrier's liability for conversion to its own use.

(3) Reasonable provisions as to the time and manner of presenting claims and instituting actions based on the shipment may be included in a bill of lading or tariff.

## Part 4. Warehouse Receipts and Bills of Lading: General Obligations

Section 7–401. *Irregularities in Issue of Receipt or Bill or Conduct of Issuer.* The obligations imposed this Article on an issuer apply to a document of title regardless of the fact that

(a) the document may not comply with the requirements of this Article or of any other law or regulation regarding its issue, form or content; or

(b) the issuer may have violated laws regulating the conduct of his business; or

(c) the goods covered by the document were owned by the bailee at the time the document was issued; or

(d) the person issuing the document does not come within the definition of warehouseman if it purports to be a warehouse receipt.

Section 7–402. *Duplicate Receipt or Bill; Overissue.* Neither a duplicate nor any other document of title purporting to cover goods already represented by an outstanding document of the same issuer confers any right in the goods, except as provided in the case of bills in a set, overissue of documents for fungible goods and substitutes for lost, stolen or destroyed documents. But the issuer is liable for damages caused by his overissue or failure to identify a duplicate document as such by conspicuous notation on its face.

Section 7–403. *Obligation of Warehouseman or Carrier to Deliver; Excuse.* (1) The bailee must deliver the goods to a person entitled under the document who complies with subsections (2) and (3), unless and to the extent that the bailee establishes any of the following:

(a) delivery of the goods to a person whose receipt was rightful as against the claimant;
(b) damage to or delay, loss or destruction of the goods for which the bailee is not liable, but the burden of establishing negligence in such cases is on the person entitled under the document;
(c) previous sale or other disposition of the goods in lawful enforcement of a lien or on warehouseman's lawful termination of storage;
(d) the exercise by a seller of his right to stop delivery pursuant to the provisions of the Article on Sales (Section 2–705);
(e) a diversion, reconsignment or other disposition pursuant to the provisions of this Article (Section 7–303) or tariff regulating such right;
(f) release, satisfaction or any other fact affording a personal defense against the claimant;
(g) any other lawful excuse.

(2) A person claiming goods covered by a document of title must satisfy the bailee's lien where the bailee so requests or where the bailee is prohibited by law from delivering the goods until the charges are paid.

(3) Unless the person claiming is one against whom the document confers no right under Sec. 7–503 (1), he must surrender for cancellation or notation of partial deliveries any outstanding negotiable document covering the goods, and the bailee must cancel the document or conspicuously note the partial delivery thereon or be liable to any person to whom the document is duly negotiated.

(4) "Person entitled under the document" means holder in the case of a negotiable document, or the person to whom delivery is to

be made by the terms of or pursuant to written instructions under a non-negotiable document.

Section 7—404. *No Liability for Good Faith Delivery Pursuant to Receipt or Bill.* A bailee who in good faith including observance of reasonable commercial standards has received goods and delivered or otherwise disposed of them according to the terms of the document of title or pursuant to this Article is not liable therefor. This rule applies even though the person from whom he received the goods had no authority to procure the document or to dispose of the goods and even though the person to whom he delivered the goods had no authority to receive them.

### Part 5. Warehouse Receipts and Bills of Lading: Negotiation and Transfer

Section 7—501. *Form of Negotiation and Requirements of "Due Negotiation".* (1) A negotiable document of title running to the order of a named person is negotiated by his indorsement and delivery. After his indorsement in blank or to bearer any person can negotiate it by delivery alone.

(2) (a) A negotiable document of title is also negotiated by delivery alone when by its original terms it runs to bearer;

(b) when a document running to the order of a named person is delivered to him the effect is the same as if the document had been negotiated.

(3) Negotiation of a negotiable document of title after it has been indorsed to a specified person requires indorsement by the special indorsee as well as delivery.

(4) A negotiable document of title is "duly negotiated" when it is negotiated in the manner stated in this section to a holder who purchases it in good faith without notice of any defense against or claim to it on the part of any person and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves receiving the document in settlement or payment of a money obligation.

(5) Indorsement of a non-negotiable document neither makes it negotiable nor adds to the transferee's rights.

(6) The naming in a negotiable bill of a person to be notified of the arrival of the goods does not limit the negotiability of the bill nor constitute notice to a purchaser thereof of any interest of such person in the goods.

Section 7—502. *Rights Acquired by Due Negotiation.* (1) Subject to the following section and to the provisions of Section 7—205 on fungible goods, a holder to whom a negotiable document of title has been duly negotiated acquires thereby:

(a) title to the document;
(b) title to the goods;
(c) all rights accruing under the law of agency or estoppel, including rights to goods delviered to the bailee after the document was issued; and
(d) the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by him except those arising under the terms of the document or under this Article. In the case of a delivery order the bailee's obligation accrues only upon acceptance and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(2) Subject to the following section, title and rights so acquired are not defeated by any stoppage of the goods represented by the document or by surrender of such goods by the bailee, and are not impaired even though the negotiation or any prior negotiation constituted a breach of duty or even though any person has been deprived of possession of the document by misrepresentation, fraud, accident, mistake, duress, loss, theft or conversion, or even though a previous sale or other transfer of the goods or document has been made to a third person.

Section 7—503. *Document of Title to Goods Defeated in Certain Cases.* (1) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who neither

(a) delivered or entrusted them or any dcoument of title covering them to the bailor or his nominee with actual or apparent authority to ship, store or sell or with power to obtain delivery under this Article (Section 7—403) or with power of disposition under this Act (Sections 2—403 and 9—307) or other statute or rule of law; nor
(b) acquiesced in the procurement by the bailor or his nominee of any document of title.

(2) Title to goods based upon an unaccepted delivery order is subject to the rights of anyone to whom a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. Such a title may be defeated under the next section to the same extent as the rights of the issuer or a transferee from the issuer.

(3) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of anyone to whom a bill issued by the freight forwarder is duly negotiated; but delivery by the carrier in accordance with Part 4 of this Article pursuant to its own bill of lading discharges the carrier's obligation to deliver.

Section 7—504. *Rights Acquired in the Absence of Due Negotiation; Effect of Diversion; Seller's Stoppage of Delivery.* (1) A transferee of a document, whether negotiable or non-negotiable, to whom the document has been delivered but not duly negotiated, acquires the title and rights which his transferor had or had actual authority to convey.

(2) In the case of a non-negotiable document, until but not after the bailee receives notification of the transfer, the rights of the transferee may be defeated

- (a) by those creditors of the transferor who could treat the sale as void under Section 2–402; or
- (b) by a buyer from the transferor in ordinary course of business if the bailee has delivered the goods to the buyer or received notification of his rights; or
- (c) as against the bailee by good faith dealings of the bailee with the transferor.

(3) A diversion or other change of shipping instructions by the consignor in a non-negotiable bill of lading which causes the bailee not to deliver to the consignee defeats the consignee's title to the goods if they have been delivered to a buyer in ordinary course of business and in any event defeats the consignee's rights against the bailee.

(4) Delivery pursuant to a non-negotiable document may be stopped by a seller under Section 2–705, and subject to the requirement of due notification there provided. A bailee honoring the seller's instructions is entitled to be indemnified by the seller against any resulting loss or expense.

Section 7–505. *Indorser Not a Guarantor for Other Parties.* The indorsement of a document of title issued by a bailee does not make the indorser liable for any default by the bailee or by previous indorsers.

Section 7–506. *Delivery Without Indorsements* Right to *Compel Indorsement.* The transferee of a negotiable document of title has a specifically enforceable right to have his transferor supply any necessary indorsement but the transfer becomes a negotiation only as of the time the indorsement is supplied.

Section 7–507. *Warranties on Negotiation or Transfer of Receipt or Bill.* Where a person negotiates or transfers a document of title for value otherwise than as a mere intermediary under the next following section, then unless otherwise agreed he warrants to his immediate purchaser only in addition to any warranty made in selling the goods

- (a) that the document is genuine; and
- (b) that he has no knowledge of any fact which would impair its validity or worth; and
- (c) that his negotiation or transfer is rightful and fully effective with respect to the title to the document and the goods it represents.

Section 7—508. *Warranties of Collecting Bank as to Documents.* A collecting bank or other intermediary known to be entrusted with documents on behalf of another or with collection of a draft or other claim against delivery of documents warrants by such delivery of the documents only its own good faith and authority. This rule applies even though the intermediary has purchased or made advances against the claim or draft to be collected.

Section 7—509. *Receipt or Bill: When Adequate Compliance With Commercial Contract.* The question whether a document is adequate to fulfill the obligations of a contract for sale or the conditions of a credit is governed by the Article on Sales (Article 2) and on Letters of Credit (Article 5).

## Part 6. Warehouse Receipts and Bills of Lading: Miscellaneous Provisions

Section 7—601. *Lost and Missing Documents.* (1) If a document has been lost, stolen or destroyed, a court may order delivery of the goods or issuance of a substitute document and the bailee may without liability to any person comply with such order. If the document was negotiable the claimant must post security approved by the court to indemnify any person who may suffer loss as a result of non-surrender of the document. If the document was not negotiable, such security may be required at the discretion of the court. The court may also in its discretion order payment of the bailee's reasonable costs and counsel fees.

(2) A bailee who without court order delivers goods to a person claiming under a missing negotiable document is liable to any person injured thereby, and if the delivery is not in good faith becomes liable for conversion. Delivery in good faith is not conversion if made in accordance with a filed classification or tariff or, where no classification or tariff is filed, if the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery who files a notice of claim within one year after the delivery.

Section 7—602. *Attachment of Goods Covered by a Negotiable Document.* Except where the document was originally issued upon delivery of the goods by a person who had no power to dispose of them, no lien attaches by virtue of any judicial process to goods in the possession of a bailee for which a negotiable document of title is outstanding unless the document be first surrendered to the bailee or its negotiation enjoined, and the bailee shall not be compelled to deliver the goods pursuant to process until the document is surrendered to him or impounded by the court. One who purchases the document for value without notice of the process or injunction takes free of the lien imposed by judicial process.

Section 7–603. *Conflicting Claims; Interpleader.* If more than one person claims title or possession of the goods, the bailee is excused from delivery until he has had a reasonable time to ascertain the validity of the adverse claims or to bring an action to compel all claimants to interplead and may compel such interpleader, either in defending an action for non-delivery of goods, or by original action, whichever is appropriate.

## ARTICLE 8. INVESTMENT SECURITIES

### Part 1. Short Title and General Matters

Section 8–101. *Short Title.* This Article shall be known and may be cited as Uniform Commercial Code–Investment Securities.

Section 8–102. *Definitions and Index of Definitions.* (1) In this Article unless the context otherwise requires

(a) A "security" is an instrument which
  (i) is issued in bearer or registered form; and
  (ii) is of a type commonly dealt in upon securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment; and
  (iii) is either one of a class or series or by its terms is divisible into a class or series of instruments; and
  (iv) evidences a share, participation or other interest in property or in an enterprise or evidences an obligation of the issuer.

(b) A writing which is a security is governed by this Article and not by Uniform Commercial Code–Commercial Paper even though it also meets the requirements of that Article. This Article does not apply to money.

(c) A security is in "registered form" when it specifies a person entitled to the security or the rights it evidences and when its transfer may be registered upon books maintained for that purpose by or on behalf of an issuer or the security so states.

(d) A security is in "bearer form" when it runs to bearer according to its terms and not by reason of any indorsement.

(2) "Proper form" means regular on its face with regard to all formal matters.

(3) A "subsequent purchaser" is a person who takes other than by original issue.

(4) Other definitions applying to this Article or to specified Parts thereof and the sections in which they appear are:

| | |
|---|---|
| "Adverse claim". | Section 8—301. |
| "Bona fide purchaser". | Section 8—302. |
| "Broker". | Section 8—303. |
| "Guarantee of the signature". | Section 8—402. |
| "Intermediary Bank". | Section 4—105. |
| "Issuer". | Section 8—201. |
| "Overissue". | Section 8—104. |

(5) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Section 8—103. *Issuer's Lien.* A lien upon a security in favor of an issuer thereof is valid against a purchaser only if the right of the issuer to such lien is noted conspicuously on the security.

Section 8—104. *Effect of Overissue; "Overissue."* (1) The provisions of this Article which validate a security or compel its issue or reissue do not apply to the extent that validation, issue or reissue would result in overissue; but

(a) If an identical security which does not constitute an overissue is reasonably available for purchase, the person entitled to issue or validation may compel the issuer to purchase and deliver such a security to him against surrender of the security, if any, which he holds; or

(b) if a security is not so available for purchase, the person entitled to issue or validation may recover from the issuer the price he or the last purchaser for value paid for it with interest from the date of his demand.

(2) "Overissue" means the issue of securities in excess of the amount which the issuer has corporate power to issue.

Section 8—105. *Securities Negotiable; Presumptions.* (1) Securities governed by this Article are negotiable instruments.

(2) In any action on a security

(a) unless specifically denied in the pleadings, each signature on the security or in a necessary indorsement is admitted;

(b) when the effectiveness of a signature is put in issue the burden of establishing it is on the party claiming under the signature but the signature is presumed to be genuine or authorized;

(c) when signatures are admitted or established production of the instrument entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security; and

(d) after it is shown that a defense or defect exists the plaintiff has the burden of establishing that he or some person under whom he claims is a person against whom the defense or defect is ineffective (Section 8–202).

Section 8–106. *Applicability.* The validity of a security and the rights and duties of the issuer with respect to registration of transfer are governed by the law (including the conflict of laws rules) of the jurisdiction of organization of the issuer.

Part 2. Issue—Issuer

Section 8–201. *"Issuer."* (1) With respect to obligations on or defenses to a security "issuer" includes a person who

(a) places or authorizes the placing of his name on a security (otherwise than as authenticating trustee, registrar, transfer agent or the like) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty to perform an obligation evidenced by the security; or

(b) directly or indirectly creates fractional interests in his rights or property which fractional interests are evidenced by securities; or

(c) becomes responsible for or in place of any other person described as an issuer in this section.

(2) With respect to obligations on or defenses to a security a guarantor is an issuer to the extent of his guaranty whether or not his obligation is noted on the security.

(3) With respect to registration of transfer (Part 4 of this Article) "issuer" means a person on whose behalf transfer books are maintained.

Section 8–202. *Issuer's Responsibility and Defenses; Notice of Defect or Defense.* (1) Even against a purchaser for value and without notice, the terms of a security include those stated on the security and those made part of the security by reference to another instrument, indenture or document or to a constitution, statute, ordinance, rule, regulation, order or the like to the extent that the terms so referred to do not conflict with the stated terms. Such a reference does not of itself charge a purchaser for value with notice of a defect going to the validity of the security even though the security expressly states that a person accepting it admits such notice.

(2) (a) A security other than one issued by a government or governmental agency or unit even though issued with a defect going to its validity is valid in the hands of a purchaser for value and without notice of the particular defect unless the defect involves a violation of constitu-

tional provisions in which case the security is valid in the hands of a subsequent purchaser for value and without notice of the defect.

(b) The rule of subparagraph (a) applies to an issuer which is a government or governmental agency or unit only if either there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

(3) Except as otherwise provided in the case of certain unauthorized signatures on issue (Section 8—205), lack of genuineness of a security is a complete defense even against a purchaser for value and without notice.

(4) All other defenses of the issuer including nondelivery and conditional delivery of the security are ineffective against a purchaser for value who has taken without notice of the particular defense..

(5) Nothing in this section shall be construed to affect the right of a party to a "when, as and if issued" or a "when distributed" contract to cancel the contract in the event of a material change in the character of the security which is the subject of the contract or in the plan or arrangement pursuant to which such security is to be issued or distributed.

Section 8—203. *Staleness as Notice of Defects or Defenses.* (1) After an act or event which creates a right to immediate performance or the principal obligation evidenced by the security or which sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer.

(a) if the act or event is one requiring the payment of money or the delivery of securities or both on presentation or surrender of the security and such funds or securities are available on the date set for payment or exchange and he takes the security more than one year after that date; and

(b) if the act or event is not covered by paragraph (a) and he takes the security more than two years after the date set for surrender or presentation or the date on which such performance became due.

(2) A call which has been revoked is not within subsection (1).

Section 8—204. *Effect of Issuer's Restrictions on Transfer.* Unless noted conspicuously on the security a restriction on transfer imposed by the issuer even though otherwise lawful is ineffective except against a person with actual knowledge of it.

Section 8–205. *Effect of Unauthorized Signature on Issue.* An unauthorized signature placed on a security prior to or in the course of issue is ineffective except that the signature is effective in favor of a purchaser for value and without notice of the lack of authority if the signing has been done by

(a) an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security or of similar securities or their immediate preparation for signing; or

(b) an employee of the issuer or of any of the foregoing entrusted with responsible handling of the security.

Section 8–206. *Completion or Alteration of Instrument.* (1) Where a security contains the signatures necessary to its issue or transfer but is incomplete in any other respect

(a) any person may complete it by filling in the blanks as authorized; and

(b) even though the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of such incorrectness.

(2) A complete security which has been improperly altered even though fraudulently remains enforceable but only according to its original terms.

Section 8–207. *Rights of Issuer With Respect to Registered Owners.* (1) Prior to due presentment for registration of transfer of a security in registered form the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, to receive notifications and otherwise to exercise all the rights and powers of an owner.

(2) Nothing in this Article shall be construed to affect the liability of the registered owner of a security for calls, assessments or the like.

Section 8–208. *Effect of Signature of Authenticating Trustee, Registrar or Transfer Agent.* (1) A person placing his signature upon a security as authenticating trustee, registrar, transfer agent or the like warrants to a purchaser for value without notice of the particular defect that

(a) the security is genuine and in proper form; and

(b) his own participation in the issue of the security is within his capacity and within the scope of the authorization received by him from the issuer; and

(c) he has reasonable grounds to believe that the security is within the amount the issuer is authorized to issue.

(2) Unless otherwise agreed, a person by so placing his signature does not assume responsibility for the validity of the security in other respects.

Part 3. Purchase

Section 8—301. *Rights Acquired by Purchaser; "Adverse Claim"; Title Acquired by Bona Fide Purchaser.* (1) Upon delivery of a security the purchaser acquires the rights in the security which his transferor had or had actual authority to convey except that a purchaser who has himself been a party to any fraud or illegality affecting the security or who as a prior holder had notice of an adverse claim cannot improve his position by taking from a later bona fide purchaser. "Adverse claim" includes a claim that a transfer was or would be wrongful or that a particular person is the owner of or has an interest in the security.

(2) A bona fide purchaser in addition to acquiring the rights of a purchaser also acquires the security free of any adverse claim.

(3) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

Section 8—302. *"Bona Fide Purchaser."* A "bona fide purchaser" is a purchaser for value in good faith and without notice of any adverse claim who takes delivery of a security in bearer form or of one in registered form issued to him or indorsed to him or in blank.

Section 8—303. *"Broker."* "Broker" means a person engaged for all or part of his time in the business of buying and selling securities, who in the transaction concerned acts for, or buys a security from or sells a security to a customer. Nothing in this Article determines the capacity in which a person acts for purposes of any other statute or rule to which such person is subject.

Section 8—304. *Notice to Purchaser of Adverse Claims.* (1) A purchaser (including a broker for the seller or buyer but excluding an intermediary bank) of a security is charged with notice of adverse claims if

(a) the security whether in bearer or registered form has been indorsed "for collection" or "for surrender" or for some other purpose not involving transfer; or

(b) the security is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor. The mere writing of a name on a security is not such a statement.

(2) The fact that the purchaser (including a broker for the seller or buyer) has notice that the security is held for a third person or is registered in the name of or indorsed by a fiduciary does not create a duty of inquiry into the rightfulness of the transfer or constitute notice of adverse claims. If, however, the purchaser (excluding an intermediary bank) has reason to know that the proceeds are being used or that the transaction is for the individual benefit of the fiduciary, the purchaser is charged with notice of adverse claims.

Section 8—305. *Staleness as Notice of Adverse Claims.* An act or event which creates a right to immediate performance of the principal obligation evidenced by the security or which sets a date on or after which the security is to be presented or surrendered for redemption or exchange does not of itself constitute any notice of adverse claims except in the case of a purchase.

(a) after one year from any date set for such presentment or surrender for redemption or exchange; or

(b) after six months from any date set for payment of money against presentation or surrender of the security if funds are available for payment on that date.

Section 8—306. *Warranties on Presentment and Transfer.* (1) A person who presents a security for registration of transfer or for payment or exchange warrants to the issuer that he is entitled to the registration, payment or exchange. But a purchaser for value without notice of adverse claims who receives a new, reissued or re-registered security on registration of transfer warrants only that he has no knowledge of any unauthorized signature (Section 8—311) in a necessary indorsement.

(2) A person by transferring a security to a purchaser for value warrants only that

(a) his transfer is effective and rightful; and

(b) the security is genuine and has not been materially altered; and

(c) he knows no fact which might impair the validity of the security.

(3) Where a security is delivered by an intermediary known to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim against such delivery, the intermediary by such delivery warrants only his own good faith and authority even though he has purchased or made advances against the claim to be collected against the delivery. A broker is not an intermediary within the meaning of this subsection.

(4) A pledgee or other holder for security who redelivers the security received, or after payment and on order of the debtor delivers that security to a third person makes only the warranties of an intermediary under subsection (3).

(5) A broker gives to his customer and to the issuer and a purchaser the warranties provided in this section and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of his customer.

Section 8—307. *Effect of Delivery Without Indorsement; Right to Compel Indorsement.* Where a security in registered form has been delivered to a purchaser without a necessary indorsement he may become a bona fide purchaser only as of the time the indorsement is supplied, but against the transferor the transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary indorsement supplied.

Section 8—308. *Indorsement, How Made; Special Indorsement; Indorser Not a Guarantor; Partial Assignment.* (1) An indorsement of a security in registered form is made when an appropriate person signs on it or on a separate document an assignment or transfer of the security or a power to assign or transfer it or when the signature or such person is written without more upon the back of the security.

(2) An indorsement may be in blank or special. An indorsement in blank includes an indorsement to bearer. A special indorsement specifies the person to whom the security is to be transferred, or who has power to transfer it. A holder may convert a blank indorsement into a special indorsement.

(3) "An appropriate person" in subsection (1) means

(a) the person specified by the security or by special indorsement to be entitled to the security; or

(b) where the person so specified is described as a fiduciary but is no longer serving in the described capacity,—his successor; or

(c) where the security or indorsement so specifies more than one person as fiduciaries and one or more are no longer serving in the described capacity,—the remaining fiduciary or fiduciaries, whether or not a successor has been appointed or qualified; or

(d) where the person so specified is an individual and is without capacity to act by virtue of death, incompetence, infancy or otherwise,—his executor, administrator, guardian or like fiduciary; or

(e) where the security or indorsement so specifies more than one person as tenants by the entirety or with right or survivorship and by reason of death all cannot sign, —the survivor or survivors; or

(f) a person having power to sign under applicable law or controlling instrument; or

(g) to the extent that any of the foregoing persons may act through an agent,—his authorized agent.

(4) Unless otherwise agreed the indorser by his indorsement assumes no obligation that the security will be honored by the issuer.

(5) An indorsement purporting to be only of part of a security representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.

(6) Whether the person signing is appropriate is determined as of the date of signing and an indorsement by such a person does

not become unauthorized for the purposes of this Article by virtue of any subsequent change of circumstances.

(7) Failure of a fiduciary to comply with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer, does not render his indorsement unauthorized for the purposes of this Article

Section 8—309. *Effect of Indorsement Without Delivery.* An indorsement of a security whether special or in blank does not constitute a transfer until delivery of the security on which it appears or if the indorsement is on a separate document until delivery of both the document and the security.

Section 8—310. *Indorsement of Security in Bearer Form.* An indorsement of a security in bearer form may give notice of adverse claims (Section 8—304) but does not otherwise affect any right to registration the holder may possess.

Section 8—311. *Effect of Unauthorized Indorsement.* Unless the owner has ratified an unauthorized indorsement or is otherwise precluded from asserting its effectiveness

(a) he may assert its effectiveness against the issuer or any purchaser other than a purchaser for value and without notice of adverse claims who has in good faith received a new, reissued or re-registered security on registration of transfer; and

(b) an issuer who registers the transfer of a security upon the unauthorized indorsement is subject to liability for improper registration (Section 8—404).

Section 8—312. *Effect of Guaranteeing Signature or Indorsement.* (1) Any person guaranteeing a signature of an indorser of a security warrants that at the time of signing

(a) the signature was genuine; and

(b) the signer was an appropriate person to indorse (Section 8—308); and

(c) the signer had legal capacity to sign.

But the guarantor does not otherwise warrant the rightfulness of the particular transfer.

(2) Any person may guarantee an indorsement of a security and by so doing warrants not only the signature (subsection 1) but also the rightfulness of the particular transfer in all respects. But no issuer may require a guarantee of indorsement as a condition to registration of transfer.

(3) The foregoing warranties are made to any person taking or dealing with the security in reliance on the guarantee and the guarantor is liable to such person for any loss resulting from breach of the warranties.

Section 8—313. *When Delivery to the Purchaser Occurs; Purchaser's Broker as Holder.* (1) Delivery to a purchaser occurs when

(a) he or a person designated by him acquires possession of a security; or

(b) his broker acquires possession of a security specially indorsed to or issued in the name of the purchaser; or

(c) his broker sends him confirmation of the purchase and also by book entry or otherwise identifies a specific security in the broker's possession as belonging to the purchaser; or

(d) with respect to an identified security to be delivered while still in the possession of a third person when that person acknowledges that he holds for the purchaser.

(2) Except as specified in subparagraphs (b) and (c) of subsection (1) the purchaser is not the holder of securities held for him by his broker despite a confirmation of purchase and a book entry and other indication that the security is part of a fungible bulk held for customers and despite the customer's acquisition of a proportionate property interest in the fungible bulk.

Section 8—314. *Duty to Deliver, When Completed.* (1) Unless otherwise agreed where a sale of a security is made on an exchange or otherwise through brokers

(a) the selling customer fulfills his duty to deliver when he places such a security in the possession of the selling broker or of a person designated by the broker or if requested causes an acknowledgment to be made to the selling broker that it is held for him; and

(b) the selling broker including a correspondent broker acting for a selling customer fulfills his duty to deliver by placing the security or a like security in the possession of the buying broker or a person designated by him or by effecting clearance of the sale in accordance with the rules of the exchange on which the transaction took place.

(2) Except as otherwise provided in this section and unless otherwise agreed, a transferor's duty to deliver a security under a contract of purchase is not fulfilled until he places the security in form to be negotiated by the purchaser in the possession of the purchaser or of a person designated by him or at the purchaser's request causes an acknowledgment to be made to the purchaser that it is held for him. Unless made on an exchange a sale to a broker purchasing for his own account is within this subsection and not within subsection (1).

Section 8—315. *Action Against Purchaser Based Upon Wrongful Transfer.* (1) Any person against whom the transfer of a security is wrongful for any reason, including his incapacity, may against anyone except a bona fide purchaser reclaim possession of the security or obtain possession of any new security evidencing all or part of the same rights or have damages.

(2) If the transfer is wrongful because of an unauthorized indorsement, the owner may also reclaim or obtain possession of the security or new security even from a bona fide purchaser if the ineffectiveness of the purported indorsement can be asserted against him under the provisions of this Article on unauthorized indorsements (Section 8–311).

(3) The right to obtain or reclaim possession of a security may be specifically enforced and its transfer enjoined and the security impounded pending the litigation.

Section 8–316. *Purchaser's Right to Requisites for Registration of Transfer on Books.* Unless otherwise agreed the transferor must on due demand supply his purchaser with any proof of his authority to transfer or with any other requisite which may be necessary to obtain registration of the transfer of the security but if the transfer is not for value a transferor need not do so unless the purchaser furnishes the necessary expenses. Failure to comply with a demand made within a reasonable time gives the purchaser the right to reject or rescind the transfer.

Section 8–317. *Attachment or Levy Upon Security.* (1) No attachment or levy upon a security or any share or other interest evidenced thereby which is outstanding shall be valid until the security is actually seized by the officer making the attachment or levy but a security which has been surrendered to the issuer may be attached or levied upon at the source.

(2) A creditor whose debtor is the owner of a security shall be entitled to such aid from courts of appropriate jurisdiction, by injunction or otherwise, in reaching such security or in satisfying the claim by means thereof as is allowed at law or in equity in regard to property which cannot readily be attached or levied upon by ordinary legal process.

Section 8–318. *No Conversion by Good Faith Delivery.* An agent or bailee who in good faith (including observance of reasonable commercial standards if he is in the business of buying, selling or otherwise dealing with securities) has received securities and sold, pledged or delivered them according to the instructions of his principal is not liable for conversion although the principal had no right to dispose of them.

Section 8–319. *Statute of Frauds.* A contract for the sale of securities is not enforceable by way of action or defense unless

(a) there is some writing signed by the party against whom enforcement is sought or by his authorized agent or broker sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price; or

(b) delivery of the security has been accepted or payment has been made but the contract is enforceable under this provision only to the extent of such delivery or payment; or

(c) within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sender under paragraph (a) has been received by the party whom enforcement is sought and he has failed to send written objection to its contents within ten days after its receipt; or

(d) the party against whom enforcement is sought admits in his pleading, testimony or otherwise in court that a contract was made for sale of a stated quantity of described securities at a defined or stated price.

Part 4. Registration

Section 8—401. *Duty of Issuer to Register Transfer.* (1) Where a security in registered form is presented to the issuer with a request to register transfer, the issuer is under a duty to register the transfer as requested if

(a) the security is indorsed by the appropriate person or persons (Section 8—308); and

(b) reasonable assurance is given that those indorsements are genuine and effective (Sections 8—402); and

(c) the issuer has no duty to inquire into adverse claims or has discharged any such duty (Section 8—403); and

(d) any applicable law relating to the collection of taxes has been complied with; and

(e) the transfer is in fact rightful or is to a bona fide purchaser.

(2) Where an issuer is under a duty to register a transfer of a security the issuer is also liable to the person presenting it for registration or his principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer.

Section 8—402. *Assurance That Indorsements Are Effective.* (1) The issuer may require the following assurance that each necessary indorsement is genuine and effective

(a) in all cases, a guarantee of the signature (subsection (1) of Section 8—312) of the person indorsing; and

(b) where the indorsement is by an agent, appropriate assurance of authority to sign;

(c) where the indorsement is by fiduciary, an appropriate certificate of appointment or incumbency dated within sixty days before the date of presentation for transfer;

(d) where there is more than one fiduciary, reasonable assurance that all who are required to sign have done so;

(e) where the indorsement is by a person not covered by any of the foregoing, assurance appropriate to the case corresponding as nearly as may be to the foregoing.

(2) A "guarantee of the signature" in subsection (1) means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible. The issuer may adopt standards with respect to responsibility provided such standards are not manifestly unreasonable.

(3) "An appropriate certificate of appointment or incumbency" in subsection (1) means

(a) in the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court; and

(b) otherwise, a certificate issued by or on behalf of a person reasonably believed by the issuer to be qualified so to certify. The issuer may adopt standards with respect to qualification provided such standards are not manifestly unreasonable.

(4) If the issuer has notice that the transfer may be wrongful, it may require reasonable assurance beyond that specified in this section. But if an issuer elects to investigate the requested transfer and both requires and obtains a copy of a will, trust, indenture, articles of co-partnership, by-laws or other controlling instrument it is put on notice of all matters contained therein affecting the transfer.

Section 8—403. *Limited Duty of Inquiry.* (1) An issuer to whom a security is presented for registration is under a duty to inquire into adverse claims if

(a) a notification of an adverse claim is received at a time and in a manner which affords the issuer a reasonable opportunity to act on it prior to the issuance of a new, reissued or re-registered security; or

(b) the issuer has notice of an adverse claim by electing to require a controlling instrument as provided in the last subsection of the preceding section.

(2) The issuer may discharge any duty of inquiry by any reasonable means, including notifying an adverse claimant by registered or certified mail at the address furnished by him or if there be no such address at his residence or regular place of business that the security has been presented for registration of transfer by a named person, and that the transfer will be registered unless within thirty days from the date of mailing the notification, either

(a) an appropriate restraining order, injunction or other process issues from a court of competent jurisdiction; or

(b) an indemnity bond sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar or other agent of the issuer involved, from any loss which it or they may suffer by complying with the adverse claim is filed with the issuer.

(3) Except to the extent that an issuer has notice by electing to require a controlling instrument as provided in the last subsection of the preceding section or receives notification of an adverse claim under subsection (1) of this section, where a security presented for registration is indorsed by the appropriate person or persons the issuer is under no duty to inquire into adverse claims. In particular

(a) an issuer registering a security in the name of a fiduciary is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship.

(b) an issuer registering transfer on an indorsement by a fiduciary is not bound to inquire whether the transfer is made in compliance with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and

(c) the issuer is not charged with notice of the contents of any court record or file or other recorded or unrecorded document even though the document is in its possession and even though the transfer is made on the indorsement of a fiduciary to the fiduciary himself or to his nominee.

Section 8—404. *Liability and Non-Liability for Registration.* (1) Except as otherwise provided in any law relating to the collection of taxes, the issuer is not liable to the owner or any other person suffering loss as a result of the registration of a transfer of a security if

(a) there were on or with the security the necessary indorsements (Section 8—308); and

(b) the issuer had no duty to inquire into adverse claims or has discharged any such duty (Section 8—403).

(2) Where an issuer has registered a transfer of a security to a person not entitled to it the issuer on demand must deliver a like security to the true owner unless

(a) the registration was pursuant to subsection (1); or

(b) the owner is precluded from asserting any claim for registering the transfer under subsection (1) of the following section; or

(c) such delivery would result in overissue, in which case the issuer's liability is governed by Section 8—104.

Section 8—405. *Lost, Destroyed and Stolen Securities.* (1) Where a security has been lost, apparently destroyed or wrongfully taken and the owner fails to notify the issuer of that fact within a reasonable time after he has notice of it and the issuer registers a transfer of the security before receiving such a notification, the owner is precluded from asserting against the issuer any claim for registering the transfer under the preceding section or any claim to a new security under this section.

(2) Where the owner of a security claims that the security has been lost, destroyed or wrongfully taken, the issuer must issue a new security in place of the original security if the owner

(a) so requests before the issuer has notice that the security has been acquired by a bona fide purchaser; and
(b) files with the issuer a sufficient indemnity bond; and
(c) satisfies any other reasonable requirements imposed by the issuer.

(3) If, after the issue of the new security, a bona fide purchaser of the original security presents it for registration of transfer, the issuer must register the transfer unless registration would result in overissue, in which event the issuer's liability is governed by Section 8–104. In addition to any rights on the indemnity bond, the issuer may recover the new security from the person to whom it was issued or any person taking under him except a bona fide purchaser.

Section 8–406. *Duty of Authenticating Trustee, Transfer Agent or Registrar.* (1) Where a person acts as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities

(a) he is under a duty to the issuer to exercise good faith and due diligence in performing his functions; and
(b) he has with regard to the particular functions he performs the same obligation to the holder or owner of the security and has the same rights and privileges as the issuer has in regard to those functions.

(2) Notice to an authenticating trustee, transfer agent, registrar or other such agent is notice to the issuer with respect to the functions performed by the agent.

## ARTICLE 9

## SECURED TRANSACTIONS; SALES OF ACCOUNTS, CONTRACT RIGHTS AND CHATTEL PAPER

### Part 1. Short Title, Applicability and Definitions

Section 9–101. *Short Title.* This Article shall be known and may be cited as Uniform Commercial Code–Secured Transactions.

Section 9–102. *Policy and Scope of Article.* (1) Except as otherwise provided in Section 9–103 on multiple state transactions and in Section 9–104 on excluded transactions, this Article applies so far as concerns any personal property and fixtures within the jurisdiction of this State

(a) to any transaction (regardless of its form) which is intended to create a security interest in personal property or fixtures including goods, documents, instruments, general intangibles, chattel paper, accounts or contract rights; and also

(b) to any sale of accounts, contract rights or chattel paper.

(2) This Article applies to security interests created by contract including pledge, assignment, chattel mortgage, chattel trust, trust deed, factor's lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security. This Article does not apply to statutory liens except as provided in Section 9—310.

(3) The application of this Article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this Article does not apply.

Section 9—103. *Accounts, Contract Rights, General Intangibles and Equipment Relating to Another Jurisdiction; and Incoming Goods Already Subject to a Security Interest.* (1) If the office where the assignor of accounts or contract rights keeps his records concerning them is in this state, the validity and perfection of a security interest therein and the possibility and effect of proper filing is governed by this Article; otherwise by the law (including the conflict of laws rules) of the jurisdiction where such office is located.

(2) If the chief place of business of a debtor is in this state, this Article governs the validity and perfection of a security interest and the possibility and effect of proper filing with regard to general intangibles or with regard to goods of a type which are normally used in more than one jurisdiction (such as automotive equipment, rolling stock, airplanes, road building equipment, commercial harvesting equipment, construction machinery and the like) if such goods are classified as equipment or classified as inventory by reason of their being leased by the debtor to others. Otherwise, the law (including the conflict of laws rules) of the jurisdiction where such chief place of business is located shall govern. If the chief place of business is located in a jurisdiction which does not provide for perfection of the security interest by filing or recording in that jurisdiction, then the security interest may be perfected by filing in this state.

(3) If personal property other than that governed by subsections (1) and (2) is already subject to a security interest when it is brought into this state, the validity of the security interest in this state is to be determined by the law (including the conflict of laws rules) of the jurisdiction where the property was when the security interest attached. However, if the parties to the transaction understood at the time that the security interest attached that the property would be kept in this state and it was brought into this state within 30 days

after the security interest attached for purposes other than transportation through this state, then the validity of the security interest in this state is to be determined by the law of this state. If the security interest was already perfected under the law of the jurisdiction where the property was when the security interest attached and before being brought into this state, the security interest continues perfected in this state for four months and also thereafter if within the four month period it is perfected in this state. The security interest may also be perfected in this state after the expiration of the four month period; in such case perfection dates from the time of perfection in this state. If the security interest was not perfected under the law of the jurisdiction where the property was when the security interest attached and before being brought into this state, it may be perfected in this state; in such case perfection dates from the time of perfection in this state.

(4) Notwithstanding subsections (2) and (3), if personal property is covered by a certificate of title issued under a statute of this state or any other jurisdiction which requires indication on a certificate of title of any security interest in the property as a condition of perfection, then the perfection is governed by the law of the jurisdiction which issued the certificate.

Section 9—104. *Transactions Excluded From Article.* This Article does not apply

(a) to a security interest subject to any statute of the United States such as the Ship Mortgage Act, 1920, to the extent that such statute governs the rights of parties to and third parties affected by transactions in particular types of property; or

(b) to a landlord's lien; or

(c) to a lien given by statute or other rule of law for services or materials except as provided in Section 9—310 on priority of such liens; or

(d) to a transfer of a claim for wages, salary or other compensation of an employee; or

(e) to an equipment trust covering railway rolling stock; or

(f) to a sale of accounts, contract rights or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts, contract rights or chattel paper which is for the purpose of collection only, or a transfer of a contract right to an assignee who is also to do the performance under the contract; or

(g) to a transfer of an interest or claim in or under any policy of insurance; or

(h) to a right represented by a judgment; or

(i) to any right of set-off; or

(j) except to the extent that provision is made for fixtures in Section 9—313, to the creation or transfer of an interest in or lien on real estate, including a lease or rents thereunder; or

(k) to a transfer in whole or in part of any of the following: any claim arising out of tort; any deposit, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization.

Section 9—105. *Definitions and Index of Definitions.* (1) In this Article unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper, contract right or general intangible;

(b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

(c) "Collateral" means the property subject to a security interest, and includes accounts, contracts rights and chattel paper which have been sold;

(d) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts, contract rights or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the Article dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;

(e) "Document" means document of title as defined in the general definitions of Article 1 (Section 1—201);

(f) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (Section 9—313), but does not include money, documents, instruments, accounts, chattel paper, general intangibles, contract rights and other things in action. "Goods" also include the unborn young of animals and growing crops;

(g) "Instrument" means a negotiable instrument (defined in Section 3—104), or a security (defined in Section 8—102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment;

(h) "Security agreement" means an agreement which creates or provides for a security interest;

(i) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts, contract rights or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party.

(2) Other definitions applying to this Article and the sections in which they appear are:

| | |
|---|---|
| "Account". | Section 9–106. |
| "Consumer goods". | Section 9–109(1). |
| "Contract right". | Section 9–106. |
| "Equipment". | Section 9–109(2). |
| "Farm products". | Section 9–109(3). |
| "General intangibles". | Section 9–106. |
| "Inventory". | Section 9–109(4). |
| "Lien creditor". | Section 9–301(3). |
| "Proceeds". | Section 9–306(1). |
| "Purchase money security interest". | Section 9–107. |
| "Account". | Section 9–106. |

(3) The following definitions in other Articles apply to this Article:

| | |
|---|---|
| "Check". | Section 3–104. |
| "Contract for sale". | Section 2–106. |
| "Holder in due course". | Section 3–302. |
| "Note". | Section 3–104. |
| "Sale". | Section 2–106. |

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Section 9–106. *Definitions: "Account"; "Contract Right"; "General Intangibles".* "Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper. "Contract right" means any right to payment under a contract not yet earned by performance and not evidenced by an instrument or chattel paper. "General intangibles" means any personal property (including things in action) other than goods, accounts, contract rights, chattel paper, documents and instruments.

Section 9—107. *Definitions: "Purchase Money Security Interest".* A security interest is a "purchase money security interest" to the extent that it is

(a) taken or retained by the seller of the collateral to secure all or part of its price; or

(b) taken by a person who by making advances or incurring an obligation gives value to enable the debtor to acquire rights in or the use of collateral if such value is in fact so used.

Section 9—108. *When After-Acquired Collateral Not Security for Antecedent Debt.* Where a secured party makes an advance, incurs an obligation, releases a perfected security interest, or otherwise gives new value which is to be secured in whole or in part by after-acquired property his security interest in the after-acquired collateral shall be deemed to be taken for new value and not as security for an antecedent debt if the debtor acquires his rights in such collateral either in the ordinary course of his business or under a contract of purchase made pursuant to the security agreement within a reasonable time after new value is given.

Section 9—109. *Classification of Goods; "Consumer Goods"; "Equipment"; "Farm Products"; "Inventory".* Goods are

(1) "consumer goods" if they are used or bought for use primarily for personal, family or household purposes;

(2) "equipment' if they are used or bought for use primarily in business (including farming or a profession) or by a debtor who is a non-profit organization or a governmental subdivision or agency or if the goods are not included in the definitions of inventory, farm products or consumer goods;

(3) "farm products" if they are crops or livestock used or produced in farming operations or if they are products of crops or livestock in their unmanufactured states (such as ginned cotton, wool-clip, maple syrup, milk and eggs), and if they are in the possession of a debtor engaged in raising, fattening, grazing or other farming operations. If goods are farm products they are neither equipment nor inventory;

(4) "inventory" if they are held by a person who holds them for sale or lease or to be furnished under contracts of service or if he has so furnished them, or if they are raw materials, work in process or materials used or consumed in a business. Inventory of a person is not to be classified as his equipment.

Section 9—110. *Sufficiency of Description.* For the purposes of this Article any description of personal property or real estate is sufficient whether or not it is specific if it reasonably identifies what is described.

Section 9–111. *Applicability of Bulk Transfer Laws.* The creation of a security interest is not a bulk transfer under Article 6 (see Section 6–103).

Section 9–112. *Where Collateral Is Not Owned by Debtor.* Unless otherwise agreed, when a secured party knows that collateral is owned by a person who is not the debtor, the owner of the collateral is entitled to receive from the secured party any surplus under Section 9–502(2) or under Section 9–504(1) and is not liable for the debt or for any deficiency after resale, and he has the same right as the debtor

(a) to receive statements under Section 9–208;

(b) to receive notice of and to object to a secured party's proposal to retain the collateral in satisfaction of the indebtedness under Section 9–505;

(c) to redeem the collateral under Section 9–506;

(d) to obtain injunctive or other relief under Section 9–507(1); and

(e) to recover losses caused to him under Section 9–208(2).

Section 9–113. *Security Interests Arising Under Article on Sales.* A security interest arising solely under the Article on Sales (Article 2) is subject to the provisions of this Article except that to the extent that and so long as the debtor does not have or does not lawfully obtain possession of the goods

(a) no security agreement is necessary to make the security interest enforceable; and

(b) no filing is required to perfect the security interest; and

(c) the rights of the secured party on default by the debtor are governed by the Article on Sales (Article 2).

## Part 2. Validity of Security Agreement and Rights of Parties Thereto

Section 9–201. *General Validity of Security Agreement.* Except as otherwise provided by this Act a security agreement is effective according to its terms between the parties, against purchasers of the collateral and against creditors. Nothing in this Article validates any charge or practice illegal under any statute or regulation thereunder governing usury, small loans, retail installment sales, or the like, or extends the application of any such statute or regulation to any transaction not otherwise subject thereto.

Section 9–202. *Title to Collateral Immaterial.* Each provision of this Article with regard to rights, obligations and remedies applies whether title to collateral is in the secured party or in the debtor.

Section 9–203. *Enforceability of Secured Interest; Proceeds, Formal Requisites.* (1) Subject to the provisions of Section 4–208 on the security interest of a collecting bank and Section 9–113 on a security interest arising under the Article on Sales, a security interest is not enforceable against the debtor or third parties unless

(a) the collateral is in the possession of the secured party; or

(b) the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops or oil, gas or minerals to be extracted or timber to be cut, a description of the land concerned. In describing collateral, the word "proceeds" is sufficient without further description to cover proceeds of any character.

(2) A transaction, although subject to this Article, is also subject to KRS Chapters 190, 226, 287, 288, 290, 291, 359 and 360, and in the case of conflict between the provisions of this Article and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein.

Section 9–204. *When Security Interest Attaches; After-Acquired Property; Future Advances.* (1) A security interest cannot attach until there is agreement (subsection (3) of Section 1–201) that it attach and value is given and the debtor has rights in the collateral. It attaches as soon as all of the events in the preceding sentence have taken place unless explicit agreement postpones the time of attaching.

(2) For the purposes of this section the debtor has no rights

(a) in crops until they are planted or otherwise become growing crops, in the young of livestock until they conceived;

(b) in fish until caught, in oil, gas or minerals until they are extracted, in timber until it is cut;

(c) in a contract right until the contract has been made;

(d) in an account until it comes into existence.

(3) Except as provided in subsection (4) a security agreement may provide that collateral, whenever acquired, shall secure all obligations covered by the security agreement.

(4) No security interest attaches under an after-acquired property clause

(a) to crops which become such more than one year after the security agreement is executed except that a security interest in crops which is given in conjunction with a lease or a land purchase or improvement transaction evidenced by a contract, mortgage or deed of trust may if so agreed attach to crops to be grown on the land concerned during the period of such real estate transaction;

(b) to consumer goods other than accessions (Section 9–314) when given as additional security unless the debtor acquires rights in them within ten days after the secured party gives value.

(5) Obligations covered by a security agreement may include future advances or other value whether or not the advances or value are given pursuant to commitment.

Section 9–205. *Use or Disposition of Collateral Without Accounting Permissible.* A security interest is not invalid or fraudulent against creditors by reason of liberty in the debtor to use, commingle or dispose of all or part of the collateral (including returned or repossessed goods) or to collect or compromise accounts, contract rights or chattel paper, or to accept the return of goods or make repossessions, or to use, commingle or dispose of proceeds, or by reason of the failure of the secured party to require the debtor to account for proceeds or replace collateral. This section does not relax the requirements of possession where perfection of a security interest depends upon possession of the collateral by the secured party or by a bailee.

Section 9–206. *Agreement Not to Assert Defenses Against Assignee; Modification of Sales Warranties Where Security Agreement Exists.* (1) Subject to any statute or decision which establishes a different rule for buyers of consumer goods, an agreement by a buyer that he will not assert against an assignee any claim or defense which he may have against the seller is enforceable by an assignee who takes his assignment for value, in good faith and without notice of a claim or defense, except as to defenses of a type which may be asserted against a holder in due course of a negotiable instrument under the Article on Commercial Paper (Article 3). A buyer who as part of one transaction signs both a negotiable instrument and a security agreement makes such an agreement.

(2) When a seller retains a purchase money security interest in goods the Article on Sales (Article 2) governs the sale and any disclaimer, limitation or modification of the seller's warranties.

Section 9–207. *Rights and Duties When Collateral Is in Secured Party's Possession.* (1) A secured party must use reasonable care in the custody and preservation of collateral in his possession. In the case of an instrument or chattel paper reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Unless otherwise agreed, and subject to the provisions of Part 5 after default, when collateral is in the secured party's possession

(a) reasonable expenses (including the cost of any insurance and payment of taxes or other charges) incurred in the custody and preservation of the collateral are chargeable to the debtor and are secured by the collateral;

(b) the risk of accidental loss or damage is on the debtor to the extent of any deficiency in any effective insurance coverage;

(c) the secured party may hold as additional security any increase or profits (except money) received from the collateral, but money so received, unless remitted to the debtor, shall be applied in reduction of the secured obligation;

(d) the secured party must keep the collateral identifiable but fungible collateral may be commingled;

(e) the secured party may not make any use of the collateral except in the exercise of his duty of custody and preservation, but may repledge it upon terms which do not impair the debtor's right to redeem it.

(3) A secured party is liable for any loss caused by his failure to meet any obligation imposed by the preceding subsections but does not lose his security interest.

Section 9—208. *Request for Statement of Account or List of Collateral.* (1) A debtor may sign a statement indicating what he believes to be the aggregate amount of unpaid indebtedness as of a specified date and may send it to the secured party with a request that the statement be approved or corrected and returned to the debtor. When the security agreement or any other record kept by the secured party identifies the collateral a debtor may similarly request the secured party to approve or correct a list of the collateral.

(2) The secured party must comply with such a request within two weeks after receipt by sending a written correction or approval. If the secured party claims a security interest in all of a particular type of collateral owned by the debtor he may indicate that fact in his reply and need not approve or correct an itemized list of such collateral. If the secured party without reasonable excuse fails to comply he is liable for any loss caused to the debtor thereby; and if the debtor has properly included in his request a good faith statement of the obligation or a list of the collateral or both the secured party may claim a security interest only as shown in the statement against persons misled by his failure to comply. If he no longer has an interest in the obligation or collateral at the time the request is received he must disclose the name and address of any successor in interest known to him and he is liable for any loss caused to the debtor as a result of failure to disclose. A successor in interest is not subject to this section until a request is received by him.

(3) A debtor is entitled to such a statement once every six months without charge. The secured party may require payment of a charge not exceeding $10 for each additional statement furnished.

## Part 3. Rights of Third Parties; Perfected and Unperfected Security Interests; Rules of Priority

Section 9—301. *Persons Who Take Priority Over Unperfected Security Interests; "Lien Creditor".* (1) Except as otherwise provided in subsection (2), an unperfected security interest is subordinate to the rights of

(a) persons entitled to priority under Section 9—312;
(b) a person who becomes a lien creditor without knowledge of the security interest and before it is perfected;
(c) in the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected;
(d) in the case of accounts, contract rights, and general intangibles, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within ten days after he gives value, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment. Unless all the creditors represented had knowledge of the security interest such a representative of creditors is a lien creditor without knowledge even though he personally has knowledge of the security interest.

Section 9—302. *When Filing Is Required to Perfect Security Interest; Security Interests to Which Filing Provisions of This Article Do Not Apply.* (1) A financing statement must be filed to perfect all security interests except the following:

(a) a security interest in collateral in possession of the secured party under Section 9—305;
(b) a security interest temporarily perfected in instruments or documents without delivery under Section 9—304 or in proceeds for a 10 days period under Section 9—306;
(c) a purchase money security interest in farm equipment having a purchase price not in excess of $2500; but filing is required for a fixture under Section 9—313 or for a motor vehicle required to be licensed;

(d) a purchase money security interest in consumer goods; but filing is required for a fixture under Section 9—313 or for a motor vehicle required to be licensed;

(e) an assignment of accounts or contract rights which does not alone or in conjunction with other assignments to the same assignee transfer a signficant part of the outstanding accounts or contract rights of the assignor;

(f) a security interest of a collecting bank (Section 4—208) or arising under the Article on Sales (see Section 9—113) or covered in subsection (3) of this section.

(2) If a secured party assigns a perfected security interest, no filing under this Article is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing provisions of this Article do not apply to a security interest in property subject to a statute

(a) of the United States which provides for a national registration or filing of all security interests in such property; or

(b) of this state which provides for central filing of, or which requires indication on a certificate of title of, such security interests in such property.

(4) A security interest in property covered by a statute described in subsection (3) can be perfected only by registration or filing under that statute or by indication of the security interest on a certificate of title or a duplicate thereof by a public official.

Section 9—303. *When Security Interest Is Perfected; Continuity of Perfection.* (1) A security interest is perfected when it has attached and when all of the applicable steps required for perfection have been taken. Such steps are specified in Sections 9—302, 9—304, 9—305 and 9—306. If such steps are taken before the security interest attaches, it is perfected at the time when it attaches.

(2) If a security interest is originally perfected in any way permitted under this Article and is subsequently perfected in some other way under this Article, without an intermediate period when it was unperfected, the security interest shall be deemed to be perfected continuously for the purposes of this Article.

Section 9—304. *Perfection of Security Interest in Instruments, Documents, and Goods Covered by Documents; Perfection by Permissive Filing; Temporary Perfection Without Filing or Transfer of Possession.* (1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in instruments (other than instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5).

(2) During the period that goods are in possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments or negotiable documents is perfected without filing or the taking of possession for a period of 21 days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of 21 days without filing where a secured party having a perfected security interest in an instrument, a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor

(a) makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange; or

(b) delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal or registration of transfer.

(6) After the 21 day period in subsections (4) and (5) perfection depends upon compliance with applicable provisions of this Article.

Section 9—305. *When Possession by Secured Party Perfects Security Interest Without Filing.* A security interest in letters of credit and advices of credit (subsection (2) (a) of Section 5—116), goods, instruments, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this Article. The security interest may be otherwise perfected as provided in this Article before or after the period of possession by the secured party.

Section 9—306. *"Proceeds"; Secured Party's Rights on Disposition of Collateral.* (1) "Proceeds" includes whatever is received when collateral or proceeds is sold, exchanged, collected or otherwise disposed of. The term also includes the account arising when the right to payment is earned under a contract right. Money, checks and the like are "cash proceeds." After other proceeds are "non-cash proceeds."

(2) Except where this Article otherwise provides, a security interest continues in collateral notwithstanding sale, exchange or other disposition thereof by the debtor unless his action was authorized by the secured party in the security agreement or otherwise, and also continues in any identifiable proceeds including collections received by the debtor.

(3) The security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected ten days after receipt of the proceeds by the debtor unless

- (a) a filed financing statement covering the original collateral also covers proceeds; or
- (b) the security interest in the proceeds is perfected before the expiration of the ten day period.

(4) In the event of insolvency proceedings instituted by or against a debtor, a secured party with a perfected security interest in proceeds has a perfected security interest

- (a) in identifiable non-cash proceeds;
- (b) in identifiable cash proceeds in the form of money which is not commingled with other money or deposited in a bank account prior to the insolvency proceedings;
- (c) in identifiable cash proceeds in the form of checks and the like which are not deposited in a bank account prior to the insolvency proceedings; and
- (d) in all cash and bank accounts of the debtor, if other cash proceeds have been commingled or deposited in a bank account, but the perfected security interest under this paragraph (d) is
  - (i) subject to any right of set-off; and
  - (ii) limited to an amount not greater than the amount of any cash proceeds received by the debtor within ten days before the institution of the insolvency proceedings and commingled or deposited in a bank account prior to the insolvency proceedings less the amount of cash proceeds received by the debtor and paid over to the secured party during the ten day period.

(5) If a sale of goods results in an account or chattel paper which is transferred by the seller to a secured party, and if the goods are returned to or are repossessed by the seller or the secured party, the following rules determine priorities:

- (a) If the goods were collateral at the time of sale for an indebtedness of the seller which is still unpaid, the original security interest attaches again to the goods and continues as a perfected security interest if it was perfected at the time when the goods were sold. If the security interest was originally perfected by a filing which is still effective, nothing further is required to continue the perfected status; in any other case, the secured party must take possession of the returned or repossessed goods or must file.

(b) An unpaid transferee of the chattel paper has a security interest in the goods against the transferor. Such security interest is prior to a security interest asserted under paragraph (a) to the extent that the transferee of the chattel paper was entitled to priority under Section 9–308.

(c) An unpaid transferee of the account has a security interest in the goods against the transferor. Such security interest is subordinate to a security interest asserted under paragraph (a).

(d) A security interest of an unpaid transferee asserted under paragraph (b) or (c) must be perfected for protection against creditors of the transferor and purchasers of the returned or repossessed goods.

Section 9–307. *Protection of Buyers of Goods.* (1) A buyer in ordinary course of business (subsection (9) of Section 1–201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) In the case of consumer goods and in the case of farm equipment having an original purchase price not in excess of $2500 (other than fixtures, see Section 9–313), a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes or his own farming operations unless prior to the purchase the secured party has filed a financing statement covering such goods.

Section 9–308. *Purchase of Chattel Paper and Non-Negotiable Instruments.* A purchaser of chattel paper or a non-negotiable instrument who gives new value and takes possession of it in the ordinary course of his business and without knowledge that the specific paper or instrument is subject to a security interest has priority over a security interest which is perfected under Section 9–304 (permissive filing and temporary perfection). A purchaser of chattel paper who gives new value and takes possession of it in the ordinary course of his business has priority over a security interest in chattel paper which is claimed merely as proceeds of inventory subject to a security interest (Section 9—306), even though he knows that the specific paper is subject to the security interest.

Section 9—309. *Protection of Purchasers of Instruments and Documents.* Nothing in this Article limits the rights of a holder in due course of a negotiable instrument (Section 3—302) or a holder to whom a negotiable document of title has been duly negotiated (Section 7—501) or a bona fide purchaser of a security (Section 8—301) and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this Article does not constitute notice of the security interest to such holders or purchasers.

Section 9—310. *Priority of Certain Liens Arising by Operation of Law.* When a person in the ordinary course of his business furnishes services or materials with respect to goods subject to a security interest, a lien upon goods in the possession of such person given by statute or rule of law for such materials or services takes priority over a perfected security interest unless the lien is statutory and the statute expressly provides otherwise.

Section 9—311. *Alienability of Debtor's Rights: Judicial Process.* The debtor's rights in collateral may be voluntarily or involuntarily transferred (by way of sale, creation of a security interest, attachment, levy, garnishment or other judicial process) notwithstanding a provision in the security agreement prohibiting any transfer or making the transfer constitute a default.

Section 9—312. *Priorities Among Conflicting Security Interests in the Same Collateral.* (1) The rules of priority stated in the following sections shall govern where applicable: Section 4—208 with respect to the security interest of collecting banks in items being collected, accompanying documents and proceeds; Section 9—301 on certain priorities; Section 9—304 on goods covered by documents; Section 9—306 on proceeds and repossessions; Section 9—307 on buyers of goods; Section 9—308 on possessory against non-possessory interests in chattel paper or non-negotiable instruments; Section 9—309 on security interests in negotiable instruments, documents or securities; Section 9—310 on priorities between perfected security interests and liens by operation of law; Section 9—313 on security interests in fixtures as against interests in real estate; Section 9—314 on security interests in accessions as against interests in goods; Section 9—315 on conflicting security interests where goods lose their identity or become part of a product; and Section 9—316 on contractual subordination.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production

season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A purchase money security interest in inventory collateral has priority over a conflicting security interest in the same collateral if

(a) the purchase money security interest is perfected at the time the debtor receives possession of the collateral; and

(b) any secured party whose security interest is known to the holder of the purchase money security interest or who has previously filed a financing statement covering the same items or type of inventory has received notification of the purchase money security interest before the debtor receives possession of the collateral covered by the purchase money security interest; and

(c) such notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral if the purchase money security interest is perfected at the time the debtor receives possession of the collateral.

(5) In all cases not governed by other rules stated in this section, priority between conflicting security interests in the same collateral shall be determined as follows:

(a) in the order of filing if both are perfected by filing, regardless of which security interest attached first under Section 9–204(1) and whether it attached before or after filing;

(b) in the order of perfection unless both are perfected by filing, regardless of which security interest attached first under Section 9–204(1) and, in the case of a filed security interest, whether it attached before or after filing; and

(c) in the order of attachment under Section 9–204(1) so long as neither is perfected.

(6) For the purpose of the priority rules of the immediately preceding subsection, a continuously perfected security interest shall be treated at all times as if perfected by filing if it was originally

so perfected and it shall be treated at all times as if perfected otherwise than by filing if it was originally perfected otherwise than by filing.

Section 9—313. *Priority of Security Interests in Fixtures.* (1) The rules of this section do not apply to goods incorporated into a structure in the manner of lumber, bricks, tile, cement, glass, metal work and the like and no security interest in them exists under this Article unless the structure remains personal property under applicable law. The law of this state other than this Act determines whether and when other goods become fixtures. This Act does not prevent creation of an encumbrance upon fixtures or real estate pursuant to the law applicable to real estate.

(2) A security interest which attaches to goods before they become fixtures takes priority as to the goods over the claims of all persons who have an interest in the real estate except as stated in subsection (4).

(3) A security interest which attaches to goods after they become fixtures is valid against all persons subsequently acquiring interests in the real estate except as stated in subsection (4) but is invalid against any person with an interest in the real estate at the time the security interest attaches to the goods who has not in writing consented to the security interest or disclaimed an interest in the goods as fixtures.

(4) The security interests described in subsections (2) and (3) do not take priority over

(a) a subsequent purchaser for value of any interest in the real estate; or

(b) a creditor with a lien on the real estate subsequently obtained by judicial proceedings; or

(c) a creditor with a prior encumbrance of record on the real estate to the extent that he makes subsequent advances

if the subsequent purchase is made, the lien by judicial proceedings is obtianed, or the subsequent advance under the prior encumbrance is made or contracted for without knowledge of the security interest and before it is perfected. A purchaser of the real estate at a foreclosure sale other than an encumbrancer purchasing at his own foreclosure sale is a subsequent purchaser within this section.

(5) When under subsections (2) or (3) and (4) a secured party has priority over the claims of all persons who have interests in the real estate, he may, on default, subject to the provisions of Part 5, remove his collateral from the real estate but he must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real

estate caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation.

Section 9–314. *Accessions.* (1) A security interest in goods which attaches before they are installed in or affixed to other goods takes priority as to the goods installed or affixed (called in this section "accessions") over the claims of all persons to the whole except as stated in subsection (3) and subject to Section 9–315(1).

(2) A security interest which attaches to goods after they become part of a whole is valid against all persons subsequently acquiring interests in the whole except as stated in subsection (3) but is invalid against any person with an interest in the whole at the time the security interest attaches to the goods who has not in writing consented to the security interest or disclaimed an interest in the goods as part of the whole.

(3) The security interests described in subsections (1) and (2) do not take priority over

(a) a subsequent purchaser for value of any interest in the whole; or

(b) a creditor with a lien on the whole subsequently obtained by judicial proceedings; or

(c) a creditor with a prior perfected security interest in the whole to the extent that he makes subsequent advances

if the subsequent purchase is made, the lien by judicial proceedings obtained or the subsequent advance under the prior perfected security interest is made or contracted for without knowledge of the security interest and before it is perfected. A purchaser of the whole at a foreclosure sale other than the holder of a perfected security interest purchasing at his own foreclosure sale is a subsequent purchaser within this section.

(4) When under subsections (1) or (2) and (3) a secured party has an interest in accessions which has priority over the claims of all persons who have interests in the whole, he may on default subject to the provisions of Part 5 remove his collateral from the whole but he must reimburse any encumbrancer or owner of the whole who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury but not for any diminution in value of the whole caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation.

Section 9–315. *Priority When Goods Are Commingled or Processed.* (1) If a security interest in goods was perfected and subsequently the goods or a part thereof have become part of a product or mass, the security interest continues in the product or mass if

(a) the goods are so manufactured, processed, assembled or commingled that their identity is lost in the product or mass; or

(b) a financing statement covering the original goods also covers the product into which the goods have been manufactured, processed or assembled.

In a case to which paragraph (b) applies, no separate security interest in that part of the original goods which has been manufactured, processed or assembled into the product may be claimed under Section 9—314.

(2) When under subsection (1) more than one security interest attaches to the product or mass, they rank equally according to the ratio that the cost of the goods to which each interest originally attached bears to the cost of the total product or mass.

Section 9—316. *Priority Subject to Subordination.* Nothing in this Article prevents subordination by agreement by any person entitled to priority.

Section 9—317. *Secured Party Not Obligated on Contract of Debtor.* The mere existence of a security interest or authority given to the debtor to dispose of or use collateral does not impose contract or tort liability upon the secured party for the debtor's acts or omissions.

Section 9—318. *Defenses Against Assignee; Modification of Contract After Notification of Assignment; Term Prohibiting Assignment Ineffective; Identification and Proof of Assignment.* (1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims arising out of a sale as provided in Section 9—206 the rights of an assignee are subject to

(a) all the terms of the contract between the account debtor and assignor and any defense or claim arising therefrom; and

(b) any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives notification of the assignment.

(2) So far as the right to payment under an assigned contract right has not already become an account, and notwithstanding notification of the assignment, any modification of or substitution for the contract made in good faith and in accordance with reasonable commercial standards is effective against an assignee unless the account debtor has otherwise agreed but the assignee acquires corresponding rights under the modified or substituted contract. The

assignment may provide that such modification or substitution is a breach by the assignor.

(3) The account debtor is authorized to pay the assignor until the account debtor receives notification that the account has been assigned and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the account debtor, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the account debtor may pay the assignor.

(4) A term in any contract between an account debtor and an assignor which prohibits assignment of an account or contract right to which they are parties is ineffective.

## Part 4. Filing

Section 9—401. *Place of Filing; Erroneous Filing; Removal of Collateral.* (1) The proper place to file in order to perfect a security interest is as follows:

(a) in the office of the county court clerk in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the county court clerk in the county where the goods are kept;

(b) when the collateral is goods which at the time the security interest attaches are or are to become fixtures, then in the office where a mortgage on the real estate concerned would be filed or recorded;

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this Article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) If collateral is brought into this state from another jurisdiction, the rules stated in Section 9—103 determine whether filing is necessary in this state.

Section 9—402. *Formal Requisites of Financing Statement; Amendments.* (1) A financing statement is sufficient if it is signed by the debtor and the secured party, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral.

A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown or goods which are or are to become fixtures, the statement must also contain a description of the real estate concerned. A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by both parties.

(2) A financing statement which otherwise complies with subsection (1) is sufficient although it is signed only by the secured party when it is filed to perfect a security interest in

(a) collateral already subject to a security interest in another jurisdiction when it is brought into this state. Such a financing statement must state that the collateral was brought into this state under such circumstances.

(b) proceeds under Section 9—306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral.

(3) A form substantially as follows is sufficient to comply with subsection (1):

Name of debtor (or assignee) ------------------------
Address ------------------------------------------

Named of secured party (or assignee) ------------------
Address ------------------------------------------

1. This financing statement covers the following types (or items) of property:
   (Describe) ------------------------------------
2. (If collateral is crops) The above described crops are growing or are to be grown on:
   (Describe Real Estate) -------------------------
3. (If collateral is goods which are or are to become fixtures) The above described goods are affixed or to be affixed to:
   (Describe Real Estate) -------------------------
4. (If proceeds or products of collateral are claimed) Proceeds—Products of the collateral are also covered.
   Signature of Debtor (or Assignor) ----------------
   Signature of Secured Party (or Assignee) -----------

(4) The term "financing statement" as used in this Article means the original financing statement and any amendments but if any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment.

(5) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

Section 9–403. *What Constitutes Filing; Duration of Filing; Effect of Lapsed Filing; Duties of Filing Officer.* (1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this Article.

(2) A filed financing statement which states a maturity date of the obligation secured of five years or less is effective until such maturity date and thereafter for a period of sixty days. Any other filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such sixty day period after a stated maturity date or on the expiration of such five year period, as the case may be, unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest becomes unperfected.

(3) A continuation statement may be filed by the secured party (i) within six months before and sixty days after a stated maturity date of five years or less, and (ii) otherwise within six months prior to the expiration of the five year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it.

(4) A filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) The uniform fee for filing, indexing and furnishing filing data for an original or a continuation statement shall be $1.00.

Section 9–404. *Termination Statement.* (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor a statement that he no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must include or be accompanied by the assignment or a statement by the secured party of record that he has assigned the security interest to the signer of the termination statement. The uniform fee for filing and indexing such an assignment or statement thereof shall be $.50. If the affected secured party fails to send such a termination statement within ten days after proper demand therefor he shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

(2) On presentation to the filing officer of such a termination statement he must note it in the index. Unless a statute on disposition of public records provides otherwise, the filing officer shall remove the financing statement from the files, mark it "terminated" and send or deliver the financing statement to the secured party.

(3) The uniform fee for filing and indexing a termination statement and for sending or delivering the financing statement shall be $.50.

Section 9—405. *Filing of Statement of Assignment of a Secured Party's Interest; Duties of Filing Officer; Fees.* A secured party may assign or record all or a part of his rights under a financing statement by indication therein of the name and address of the assignee or by the filing of a separate written statement of assignment signed by the secured party and setting forth the name of the secured party and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee, and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a financing statement or such a separate statement, the filing officer shall mark such financing statement as provided in Section 9—403 (4) or mark such separate statement with the date and hour of the filing. He shall note the assignment on the margin of the index of the filing of the financing statement. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be $.50.

Section 9—406. *Release of Collateral; Duties of Filing Officer; Fees.* A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. Upon presentation of such a statement to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be $.50.

Part 5. Default

Section 9–501. *Default; Procedure When Security Agreement Covers Both Real and Personal Property.* (1) When a debtor is in default under a security agreement, a secured party has the remedies provided by this Part, which are cumulative. In addition, he may reduce his claim to judgment, foreclose the security interest by any available judicial procedure, or both. If the collateral is documents the secured party may proceed either as to the documents or as the goods covered thereby.

(2) After default, the debtor has the rights provided in this Part, and a secured party in possession has the rights and duties provided in Section 9–207.

(3) The rules stated in this Part which give rights to the debtor and impose duties on the secured party may be waived or varied only as provided in this Part but the parties may by agreement determine the standards by which the fulfillment of these rights and duties is to be measured if such standards are not manifestly unreasonable.

(4) If the security agreement covers both real and personal property, the secured party may proceed under this Part as to the personal property or he may proceed as to both the real and the personal property under the law relating to foreclosure of real estate mortgages. If the secured party proceeds as to both under the real estate mortgage law, the provisions of this Part do not apply.

(5) When a secured party has reduced his claim to judgment the lien of any levy which may be made upon his collateral by virtue of any execution based upon the judgment shall relate back to the date of the perfection of the security interest in such collateral. A judicial sale, pursuant to such execution, is a foreclosure of the security interest by judicial procedure within the meaning of this section, and the secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this Article.

Section 9–502. *Collection Rights of Secured Party.* (1) When so agreed and in any event on default the secured party is entitled to notify an account debtor or the obligor on an instrument to make payment to him whether or not the assignor was theretofore making collections on the collateral, and also to take control of any proceeds to which he is entitled under Section 9–306.

(2) A secured party who by agreement is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor and who undertakes to collect from the account debtors or obligors must proceed in a commercially reasonable manner and may deduct his reasonable expenses of realization from the collections. If the security agreement secures an indebtedness, the secured party

must account to the debtor for any surplus, and unless otherwise agreed, the debtor is liable for any deficiency. But, if the underlying transaction was a sale of accounts, contract rights, or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

Section 9—503. *Secured Party's Right to Take Possession After Default.* Unless otherwise agreed a secured party has on default the right to take possession of the collateral. In taking possession a secured party may proceed without judicial process if this can be done without breach of the peace or may proceed by action. If the security agreement so provides the secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties. Without removal a secured party may render equipment unusable, and may dispose of collateral on the debtor's premises under Section 9—504.

Section 9—504. *Secured Party's Right to Dispose of Collateral After Default; Effect of Disposition.* (1) A secured party after default; may sell, lease or otherwise dispose of any or all of the collateral in its then condition or following any commercially reasonable preparation or processing. Any sale of goods is subject to the Article on Sales(Article 2). The proceeds of disposition shall be applied in the order following to

(a) the reasonable expenses of retaking, holding, preparing for sale, selling and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;

(b) the satisfaction of indebtedness secured by the security interest under which the disposition is made;

(c) the satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the secured party, the holder of a subordinate security interest must seasonably furnish reasonable proof of his interest, and unless he does so, the secured party need not comply with his demand.

(2) If the security interest secures an indebtedness, the secured party must account to the debtor for any surplus, and, unless otherwise agreed, the debtor is liable for any deficiency. But if the underlying transaction was a sale of accounts, contract rights, or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

(3) Disposition of the collateral may be by public or private pro-

ceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the secured party to the debtor, and except in the case of consumer goods to any other person who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state or who is known by the secured party to have a security interest in the collateral. The secured party may buy at any public sale and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations he may buy at private sale.

(4) When collateral is disposed of by a secured party after default, the disposition transfers to a purchaser for value all of the debtor's rights therein, discharges the security interest under which it is made and any security interest or lien subordinate thereto. The purchaser takes free of all such rights and interests even though the secured party fails to comply with the requirements of this Part or of any judicial proceedings

(a) in the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he does not buy in collusion with the secured party, other bidders or the person conducting the sale; or

(b) in any other case, if the purchaser acts in good faith.

(5) A person who is liable to a secured party under a guaranty, indorsement, repurchase agreement or the like and who receives a transfer of collateral from the secured party or is subrogated to his rights has thereafter the rights and duties of the secured party. Such a transfer of collateral is not a sale or disposition of the collateral under this Article.

Section 9—505. *Compulsory Disposition of Collateral; Acceptance of the Collateral as Discharge of Obligation.* (1) If the debtor has paid sixty per cent of the cash price in the case of a purchase money security interest in consumer goods or sixty per cent of the loan in the case of another security interest in consumer goods, and has not signed after default a statement renouncing or modifying his rights under this Part a secured party who has taken possession of collateral must dispose of it under Section 9—504 and if he fails to do so within ninety days after he takes possession the debtor at his option may recover in conversion or under Section 9—507 (1) on secured party's liability.

(2) In any other case involving consumer goods or any other collateral a secured party in possession may, after default, propose to retain the collateral in satisfaction of the obligation. Written notice of such proposal shall be sent to the debtor and except in the case of consumer goods to any other secured party who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state or is known by the secured party in possession to have a security interest in it. If the debtor or other person entitled to receive notification objects in writing within thirty days from the receipt of the notification or if any other secured party objects in writing within thirty days after the secured party obtains possession the secured party must dispose of the collateral under Section 9—504. In the absence of such written objection the secured party may retain the collateral in satisfaction of the debtor's obligation.

Section 9—506. *Debtor's Right to Redeem Collateral.* At any time before the secured party has disposed of collateral or entered into a contract for its disposition under Section 9—504 or before the oblgiation has been discharged under Section 9—505(2) the debtor or any other secured party may unless otherwise agreed in writing after default redeem the collateral by tendering fulfillment of all obligations secured by the collateral as well as the expenses reasonably incurred by the secured party in retaking, holding and preparing the collateral for disposition, in arranging for the sale, and to the extent provided in the agreement and not prohibited by law, his reasonable attorneys' fees and legal expenses.

Section 9—507. *Secured Party's Liability for Failure to Comply with This Part.* (1) If it is established that the secured party is not proceeding in accordance with the provisions of this Part disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred the debtor or any person entitled to notification or whose security interest has been made known to the secured party prior to the disposition has a right to recover from the secured party any loss caused by a failure to comply with the provisions of this Part. If the collateral is consumer goods, the debtor has a right to recover in any event an amount not less than the credit service charge plus ten per cent of the principal amount of the debt or the time price differential plus ten per cent of the cash price.

(2) The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the secured party is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the secured party either sells the collateral in the usual manner in any

recognized market therefor or if he sells at the price current in such market at the time of his sale or if he has otherwise sold in conformity with reasonable commercial practices among dealers in the type of property sold he has sold in a commercially reasonable manner. The principles stated in the two preceding sentences with respect to sales also apply as may be appropriate to other types of disposition. A disposition which has been approved in any judicial proceeding or by any bona fide creditors' committee or representative of creditors shall conclusively be deemed to be commercially reasonable, but this sentence does not indicate that any such approval must be obtained in any case nor does it indicate that any disposition not so approved is not commercially reasonable.

## ARTICLE 10

## EFFECTIVE DATE AND REPEALER

Section 10–101. *Effective date.* This Act shall become effective at midnight on July 1, 1960 following its enactment. It applies to transactions entered into and events occurring after that date.

Section 10–102. *Chapter Repealer; Provision for Transition.* (1) The following Chapters of the Kentucky Revised Statutes are repealed:

Chapter 274

Chapter 356

Chapter 357

Chapter 358

Chapter 361

Chapter 377

(2) Transactions validly entered into before the effective date specified in Section 10-101 and the rights, duties and interests flowing from them remain valid thereafter and may be terminated, completed, consummated or enforced as required or permitted by any statute or other law amended or repealed by this Act as though such repeal or amendment had not occurred.

Section 10-103. *Section Repealer.* The following Sections of the Kentucky Revised Statutes are repealed:

Section 382.680

Section 382.690

Section 382.700

Section 382.710

Section 382.720

Section 10-104. *Laws Not Repealed.* The Article on Documents of Title (Article 7) does not repeal or modify any laws prescribing the form or contents of documents of title or the services or facilities to be afforded by bailees, or otherwise regulating bailees' businesses in respects not specifically dealt with herein; but the fact that such laws are violated does not affect the status of a document of title which otherwise complies with the definition of a document of title (Section 1-201).

Section 10—105. *Section* 287.405 *of the Kentucky Revised Statutes is amended to read as follows:* (1) No revocation, countermand or stop-payment order relating to the payment of any check or draft against an account of a depositor in any bank shall be binding upon the bank for more than fourteen days after service thereof on the bank unless such revocation, countermand or stop-payment order is confirmed in writing within that period after which it shall remain in effect for not longer than six months unless it shall be renewed which renewal shall be in writing and shall be in effect for not more than six months from date of service thereof on the bank, but such renewal may be made from time to time.

(2) No notice affecting a check upon which revocation, countermand or stop-payment order has been made before July 1, 1956, shall be deemed to continue for a period of more than six months thereafter.

Section 10—106. *Section* 378.040 *of the Kentucky Revised Statutes is amended to read as follows:* Except as provided in Section 2—402 of the Uniform Commercial Code and by KRS 364.120, any voluntary alienation of or charge upon personal property unaccompanied by a transfer of possession, in good faith, shall be void as to a purchaser without notice, or any creditor, prior to the lodging for record of such transfer or charge in the office of the county clerk of the county where the alienor or person creating the charge resides.

Section 10—107. *Section* 382.610 *of the Kentucky Revised Statutes is amended to read as follows:* Nothing in this Act shall invalidate any mortgage taken prior to June 12, 1940, or any amendment thereto to secure a pre-existing indebtedness.

Section 10—108. *Section* 446.140 *of the Kentucky Revised Statutes is amended to read as follows:* Title heads, chapter heads, sections and subsection heads or titles, and explanatory notes and cross references, in the Kentucky Revised Statutes, do not constitute any part of the law, except as provided in Section 1-109 of the Uniform Commercial Code.

Committees on Claims reported **SR 36, SB 88, SR 40, SB 193** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SR 36:** A JOINT RESOLUTION authorizing civil action against the Commonwealth of Kentucky and the Department of Highways, or either, in the interest of Andrew Taylor, Cecil Taylor, and T. W. Taylor.

WHEREAS, it appears by affidavit that beginning in the fall of 1955 and continuing through the fall of 1956 the Commonwealth of Kentucky, acting through and by the Department of Highways of said Commonwealth, constructed a levee and bridge across the East Fork of Clark's River, said levee and bridge being Southeast of the Town of Almo, Kentucky, in the County of Calloway, and constituting a part of what is now known as the Almo-Shiloh Road, and

WHEREAS, it appearing further by affidavit that said levee and bridge were inadequately, improperly, and negligently planned, engineered, and constructed, and

WHEREAS, the above-mentioned parties, together with others, timely notified the proper officials as to the above, and protested same, and

WHEREAS, it appears by affidavit that the aforesaid Andrew Taylor, Cecil Taylor, and T. W. Taylor (the owners of land immediately North of said levee and bridge) have been, and are being damaged by the aforementioned negligence, said negligence being the direct and proximate result of the alleged carelessness and negligence aforesaid, and

WHEREAS, it further appears by affidavit that said Andrew Taylor has been damaged in a sum exceeding $5,000.00, and the collective damages sustained by the three (3) landowners aforementioned being $13,817.00, and

WHEREAS, it appears by affidavit that said damage suffered by each of the property owners aforementioned arises out of the same, indentical acts of negligence complained of;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That Andrew Taylor, Cecil Taylor, and T. W. Taylor are hereby authorized and permitted to sue the Commonwealth of Kentucky and the Department of Highways, or either of them, in the Calloway Circuit Court, this being the county of their residence, and the Circuit Court having jurisdiction in Calloway County, Kentucky, and the same County in which the alleged negligent acts were committed and the resultant damages incurred.

Section 2. Said suit shall be commenced within one (1) year from the effective date of this Resolution, and no plea of limitation shall be interposed if commenced within that time.

Section 3. That the aforementioned parties are hereby authorized and permitted to file suit jointly or severally for sums not exceeding the following, to-wit:

(A) Andrew Taylor: $5,207.50
(B) Cecil Taylor: $4,859.50
(C) T. W. Taylor: $3,750.00,

the aggregate amount of said suits not to exceed the sum of $13,817.00.

Section 4. That any party to such action may appeal from any judgment which may be entered by the Calloway Circuit Court to the Court of Appeals of Kentucky as in any other civil suit and this suit may be settled and adjusted by and with the consent and approval of the Attorney General of Kentucky in the same way as any civil action may be settled or adjusted. If recovery is had by suit or compromise, the amount so adjusted or compromised shall be paid out of the State Road Fund, upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

Section 5. That final judgment in the action may be appealed by either party to the Court of Appeals in the manner provided in the Rules of Civil Procedure; and

Section 6. No statement in this Resolution shall be considered by either the court or jury as an admission of negligence upon the Department of Highways or the Commonwealth of Kentucky, and this Resolution or any portion thereof shall not be introduced in evidence, nor commented upon by counsel in argument to the jury.

**SB 88:** AN ACT relating to appeals from the Board of Claims.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 44.140 of the Kentucky Revised Statutes is amended to read as follows:

(1) Appeals may be taken to the circuit court of the county in which the cause of action arose from all awards or judgments of the board where the amount in controversy, exclusive of interest and cost, is over fifty dollars. Appeals shall be taken within thirty days from the rendition of the award or judgment, and the method of appeal shall follow as nearly as may be the Rules of Civil Procedure, Rule 72.01, except that the state shall not be required to execute bond.

(2) On appeal no new evidence may be introduced, except as to fraud or misconduct of some person engaged in the hearing before the board. The court shall hear the cause upon the record before it, and dispose of the appeal in a summary manner, being limited to

determining: Whether or not the board acted without or in excess of its powers; the award or judgment was procured by fraud; the award or judgment is not in conformity to the provisions of KRS 44.070 to 44.160; and whether the findings of fact support the award or judgment. The court shall enter its findings on the order book as a judgment of the court, and such judgment shall have the same effect and be enforceable as any other judgment of the court in civil causes.

**SR 40:** A JOINT RESOLUTION authorizing civil action against the Commonwealth of Kentucky and the Department of Highways, or either, in the interest of Charles C. Gross.

WHEREAS, it appears by affidavit that from August 1, 1949 to December 29, 1951, Charles C. Gross of Helton, Leslie County, Kentucky was employed by the Department of Highways of the Commonwealth of Kentucky in the capacity of a weighman, for which labor he received only the sum of $5,166.25, when he should have received the sum of $6,406.15, leaving a balance due him of $1,239.90 for said period; and

WHEREAS, it further appearing by affidavit that Charles C. Gross was employed by the Department of Highways of the Commonwealth of Kentucky in the capacity of weighman from January 3, 1952 to April 10, 1953, for which labor he received the sum of $2,930.75, when he should have received the sum of $4,781.74, leaving a balance due him of $1,851.00 for such period, a total sum due Charles C. Gross of $3,090.90;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That Charles C. Gross is authorized to sue the Commonwealth of Kentucky and the Department of Highways, or either of them, in the Leslie Circuit Court, the circuit court having jurisdiction of such action.

Section 2. That such action shall be for a sum not in excess of $3,090.90 and shall be commenced within one year from the effective date of this Resolution, and that no plea of limitation shall be interposed if commenced within that time.

Section 3. That the Attorney General of the Commonwealth of Kentucky may investigate the claim and settle same before or after suit is filed if he deems it advisable.

Section 4. That any amount recovered in this action, either by settlement or judgment, shall be paid out of the State Road Fund in the State Treasury upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

Section 5. That final judgment in the action may be appealed by either party to the Court of Appeals in the manner provided in the Rules of Civil Procedure.

Section 6. That no statement in this resolution shall be considered by either the court or jury as an admission of negligence upon the part of the Commonwealth, and this resolution shall not be introduced as evidence, nor commented upon by counsel in presence of the jury.

**SB 193:** AN ACT relating to the Board of Claims.

WHEREAS, the Court of Appeals, in the cases of Commonwealth of Kentucky, Department of Highways of Commonwealth of Kentucky V. Emma McCoun, and Commonwealth of Kentucky, Department of Highways of Commonwealth of Kentucky V. Orene Swango Davis, decided on February 8, 1958, that a Resolution of the General Assembly authorizing suits against the Commonwealth in excess of five thousand dollars is invalid as special legislation, since by general law such limitations is five thousand dollars; and

WHEREAS, the litigants have thirty days after February 8, 1958, to file a petition of rehearing with the court; and

WHEREAS, the final decision of the Court of Appeals may and could be made after the adjournment of the present session of the General Assembly;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 44.070 of the Kentucky Revised Statutes is amended to read as follows:

(1) A Board of Claims is hereby created and vested with full power and authority to investigate, hear proof, and to compensate persons for damages sustained to either person or property as a proximate result of negligence on the part of the Commonwealth, any of its departments or agencies, or any of its agents or employes while acting within the scope of their employment by the Commonwealth or any of its departments or agencies. The board shall be independent of all agencies and departments of the Commonwealth.

(2) The board shall be composed of five attorneys who are members of the Workmen's Compensation Board and who have been appointed and hold office under the provisions of KRS 342.215 and 342.220.

(3) The board shall have jurisdiction of claims for the recovery of money where the amount in controversy, exclusive of interest and costs, does not exceed $15,000.

Section 2. This Act shall be inoperative if the Court of Appeals, on the petition for rehearing, reverses its present opinions above stated, and affirms the judgments of the lower court.

## Calendar

**SB 144, SB 158, SB 51, HB 16, SB 122, SB 99, SB 104, SB 101, SB 176, SB 97, SB 167, SB 168, SB 174, HR 13, HB 21, SB 45** were taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that they be read by title only. Agreed by a majority of the members elected. Ordered placed in Orders of the Day.

## Motions

Senator Bassett moved to suspend the Rules for the purpose of appointing Honorary Pages in the Senate. Agreed.

Senator Bassett moved that Elizabeth Trabue White, Eddie Munson, Donna Kay Munson, Michael Broadway, William Michael Jacobs, Joe Snowden, and B. S. Kurtz be made Honorary Pages of the Senate. Agreed.

## Address

Senator Bassett moved that the Senate be at ease for the purpose of hearing Manasseh Moerane of South Africa.

The President then introduced Manasseh Moerane, President of the African Federation of 10,000 teachers, who addressed the Senate.

## House Message

Announcing passage of **SR 35, SR 39, HR 68, HB 90, HB 25, HB 32.** Ordered that said bills and resolutions be referred.

## Motions

Senator Anggelis moved to suspend the Rules for the purpose of making a motion. Agreed.

Senator Anggelis moved that the names of Senators McCann and Freeman be added as co-sponsors of **SB 84** and **SB 47.** Agreed by voice vote.

## Recess

Senator Bassett moved to recess until 1:00 p.m. Agreed. At the appointed hour, the Senate was called to order by the President Lieutenant Governor Harry Lee Waterfield.

## Introductions

Senator Francis moved to suspend the Rules for the purpose of introducing bills. Agreed.

**SB 230,** by Senator Miller: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to taxation.

**SB 231,** by Senator Knuckles: AN ACT relating to schools.

**SB 232**, by Senator Lucas: AN ACT relating to public health districts.

**SB 233**, by Senators Francis and Jackson: AN ACT pertaining to county courts and juvenile sessions thereof.

## Reference of Bills

The President announced referral of the following bills and resolutions:

Ways and Means: **SB 218, SB 220, SB 223.**
Suffrage, Elections, and Constitutional Amendments: **SB 219.**
State and County Government: **SB 221.**
Health and Welfare: **SB 222.**
Municipalities: **SB 224.**
Judiciary: **SB 225.**
Executive and Legislative Affairs: **SR 51, SR 52, SR 53, HB 157.**
Revenue and Taxation: **HB** 12.
Appropriations: **HB 140.**

## Recess

Chair announced, on motion of Senator Bassett, that the Senate will adjourn to a Joint Session with the House of Representatives to hear Mr. S. R. Sapirie.

## Joint Session

The Senate proceeded to the House of Representatives, where they entered upon the floor. Speaker of the House Weintraub presented Lieutenant Governor Harry Lee Waterfield, who assumed the Chair, presiding at the Joint Session.

Representative Everett moved that the House and Senate declare themselves in Joint Session. Agreed.

Lieutenant Governor Waterfield presented the speaker, Mr. S. R. Sapirie, who addressed the Joint Session.

It is a privilege and a pleasure to appear before this distinguished group here today. It gives me an opportunity to express personally to the Commonwealth of Kentucky, its Government, and its people the appreciation of the Atomic Energy Commission and, more specifically, Oak Ridge Operations, for the excellent cooperation that you have given us which has been so important to the success of our major production facility near Paducah.

Our Paducah Plant has grown, during a short period of seven years, to become one of the Commission's most important production installations. It represents an investment of approximately $768 Million or—stated another way—more than 10% of the total investment in plant and equipment of all facilities of the Atomic Energy Commission. The Paducah Plant is one of the Commission's three Gaseous Diffusion Plants that produce uranium enriched in the 235 isotope. This product has a brilliant future as fuel for nuclear power plants in addition to its immeasurable value for defense.

The Commonwealth of Kentucky contributes in other ways to the success of the Commission's operations. One of the more important is that of supplying coal for use in producing the tremendous quantities of electric energy required to serve our production plants. For example, four new major electric power generating plants have been constructed along the Ohio River at Paducah, at Joppa, Illinois, Madison, Indiana, and Gallopolis, Ohio, to generate approximately four million kilowatts of electric power to serve our production plants near Paducah, Kentucky, and Portsmouth, Ohio. These generating stations deliver to our plants approximately 35 billion kilowatt hours of electric energy per year which, in turn, requires over 15 million tons of coal per year. Most of this coal comes from the Commonwealth of Kentucky. Fifteen million tons of coal per year represent approximately 20% of the total amount of coal now being produced in the entire Commonwealth of Kentucky.

In addition to the coal being used to provide power for the Paducah and Portsmouth Gaseous Diffusion Plants, some Kentucky coal is also being supplied to the Tennessee Valley Authority for use in furnishing additional power to our plants at Oak Ridge, Tennessee. Seven million tons of coal per year come from mines in Tennessee and Kentucky to serve our Oak Ridge power need.

Kentucky continues to assist the Commission in many other ways—too numerous to mention. For this assistance, I offer you my personal expression of appreciation on behalf of the Atomic Energy Commission.

The peacetime applications of atomic energy are continuing to grow at an extremely fast rate and as the role of atomic energy grows larger I feel, as I am sure you do, that it becomes imperative for those in a position to help foster its growth to have an understanding of the aims and potentialities of this newly spawned industrial complex. This new industry is destined to fill an ever increasing role in the nation's economy. The field of atomic energy has been surrounded by a certain glamour, perhaps because of its early birth in complete secrecy, and the realization that here is an untapped source of energy for mankind. But when viewed realistically, atomic energy is basically just another rapidly growing industry which must be recognized and its implications seriously considered by men of foresight everywhere.

Since the atomic energy program began in the war-torn days of World War II, approximately $17 Billion have been expended for this nation's atomic energy program. The Atomic Energy Commission, as the Government agency responsible for the stewardship of the program, has over $7 Billion invested in capital plant. Oak Ridge Operations, which has responsibility for the plants at Oak Ridge, at Portsmouth, at Paducah, and other locations, has responsibility for more than $3 Billion worth of plant. Operating expenditures of the Commission are now in excess of $2 Billion per year. These are rather astronomical figures, and I have cited them merely to give you some indication of the scope of the Commission's effort in the field of atomic energy. The figures I have cited do not reflect the additional money that is being spent by private industry in the atomic energy field to further increase the importance of the atomic energy industry.

### URANIUM—Keystone Material

Uranium is the keystone material for this atomic energy industry. I have here a piece of uranium metal that is approximately 1″ in diameter and 1″ long, which weighs exactly one pound. This is normal uranium or—stated another way—uranium that has 7/10 of 1% U-235. For the moment, however, let us assume that this piece of uranium metal was made up entirely of U-235. It would then have the capability of producing on fission in a nuclear reactor the heat equivalent to that produced by the burning of 1300 tons of coal. A tremendous amount of coal is now being shipped to our friends in Great Britain and Europe; coal from fields such as yours in Kentucky. Coal that costs $2.00 to $3.00 per ton at the mine, costs $20.00 per ton when delivered to seaports in Europe. One, therefore, does not have to exercise much imagination to recognize the tremendous potential in the possibility of converting coal from Kentucky to electric power for use in Gaseous Diffusion Plants at Paducah and Portsmouth to enrich uranium in the 235 isotope, so that concentrated energy in the form of uranium fuel elements could be shipped to Europe, or other distant points, so as to eliminate or reduce greatly the tremendous shipping cost.

Enriched uranium has been offered for sale by this country to our friends in Europe for a price approximately $17.00 per gram of U-235. Using the heat relationship that I cited a few moments ago, this would then be equivalent to coal at about $6.00 per ton. Consequently, if the efficiency of a nuclear reactor power plant can be increased so as to approach that of a modern coal burning generating station, the use of nuclear power can conceivably become a magic carpet to deliver Kentucky coal throughout the world.

Good progress is being made in the nuclear power development program, but I am frank to admit that we still have a lot of work to do before nuclear power can be considered economically competitive with other types of power in most parts of this country. The demand for nuclear power in Great Britain, Europe, and other parts of the world is more pressing and of considerable national concern.

### Nuclear Reactor

The nuclear reactor, which I have mentioned, is the device or "furnace" which puts this new energy source to work. In general terms, the nuclear reactor can be considered the basis for the peaceful atomic energy industry. On the one hand, you have mining, milling, and refining operations preparing uranium for use as fuel in reactors; and, on the other, you have processing facilities which take the products of a reactor and apply them directly or prepare them for productive application.

However, before we go further into what a reactor will do for us, I think it might be well to state very briefly what a reactor is. The uranium isotope 235, which makes up about seven-tenths of one percent of natural uranium is important because it is an atom which fissions, or splits in two, and in the process yields large amounts of useful energy. In the process of splitting, a single uranium-235 atom gives up a part of itself—two or three neutrons—which in turn may split additional uranium-235 in close proximity. But when enough uranium-235 is together in a proper pattern, this process keeps occurring and sets up a chain reaction. A nuclear reactor is a device which keeps a chain reaction under control and enables man to make use of the tremendous amount of energy produced from the fissioning process. This energy appears in the form of heat and various kinds of nuclear radiations, both of which can be used productively.

When considering what a reactor produces or the job it will do, we can divide the field into three general categories. These are:

(1) the supply of radiation;

(2) the production of radioisotopes (that is radioactive elements); and

(3) the production of large amounts of heat.

### Radiation

Radiation may be used for making better materials or for improving the method for doing the same job. To date, most research in this area has been done with gamma radiation from fission products and radioisotopes produced in a reactor.

Recently, a tire manufacturing company announced that it had completed vulcanizing a tire by means of gamma radiation. This research project is expected to produce a tire which will wear longer and better through changes in the molecular bonds of the carbon atoms in the tire.

Another example of the use of gamma radiation is the change induced in the atoms making up certain plastics which gives them more strength and the ability to withstand high temperatures much better than similar materials not subjected to radiation. An example of this is polyethylene which is used in manufacturing many household utensils, baby bottles, etc., where the resistance to the temperature of boiling water is necessary.

Another potential use of radiation is in the field of preserving foods by the use of gamma rays. This might be accomplished through the use of intense radiation sources. These sources can either be designed into the reactor or irradiated in a reactor and used in some other geographic location. Used fuel elements from a reactor are also utilizable sources of radiation.

Developments in this field are in the early stages and generally fall into two classes:

(1) extending the shelf-life of foodstuffs normally kept under refrigeration; and

(2) inhibiting sprouting and killing insects in stored foodstuffs.

The radiation kills bacteria which cause spoilage. Studies, within certain radiation limits, indicate that the food value of these foods and use for human consumption are not affected in the process. For example, mild treatment may eventually extend the shelf-life of beefsteak, lamb, fish, and tomatoes by as much as five to ten times. These, as you know, normally are refrigerated products. Present experiments suggest promise that almost two dozen other foodstuffs normally classed as perishables can be successfully treated by radiation and stored for extended periods without refrigeration. Among these are bread, chicken, pork, and some vegetables. The extension of this treatment to the sterilization of bottled medicines and drugs is being successfully applied at the present time.

The second variation of the treatment of food for preservation is to subject stored grain, flour, potatoes, onions, etc., to smaller amounts of radiation to kill insects and to inhibit the sprouting of vegetables.

Work in this field is of particular interest to the Army Quartermaster Corps because of the necessity of supplying food to the U. S. military bases spread across the world, many in remote locations. The Army has stated that based on its present estimates it may be possible to save up to $40.00 per man per year in the cost of feeding its servicemen overseas through the use of irradiated foods. The Army hopes by 1960 to have solved many of the problems and to have perfected methods for use of radiation in sterilization. The Army is looking to the day when it will be able to specify, when ordering, that the various food items must be irradiated ones, and private industry will be able to meet the specifications.

Kentucky, as a supplier of food products for the Military Establishment, may look to the day when it will have the facilities available for providing foodstuff to meet these new specifications.

### Radioisotopes

As you probably are aware, "isotope" is a word used to describe certain atoms of the same element that are chemically exactly alike and differ only in weight and in their physical properties. A radioisotope is an atom that gives off radiation. Some radioisotopes occur in nature; others may be artificially produced in cyclotrons, or in nuclear reactors. The nuclear reactor makes it possible for radioisotopes to be made abundantly available at a relatively inexpensive cost when compared to the benefits that may be derived by their use. Over 900 different kinds of radioactive atoms now can be manufactured, which is more than three times the number of stable and radioactive atoms found in nature.

It is in the radioisotope field that the peace-time promises of atomic energy are already being fulfilled. The use of radioisotopes is estimated to be currently returning to American industry more than $500 Million per year. These savings result from speeded up manufacturing operations, improvement of products, and industrial processes, and in savings through uniformity of quality and other means. The industrial savings, capable of being calculated in dollar terms, are in addition to the immeasurable benefits resulting from the use of radioisotopes in medicine, agriculture, and research. For example, one cannot place a dollar value on the benefits resulting from use of radioisotopes by doctors to diagnose or treat the ailments of an estimated one million patients per year. Medical scientists are using radioisotopes to learn more about the physiology and functions of the body, more about diseases, and drugs.

In agricultural research, scientists are using this unique tool to improve the application of fertilizers, create new varieties of crop plants, improve breeds of livestock, study the effects and efficiency of insecticides and weed killers, and increase the sum of human knowledge about plant growth and plant growth processes.

In basic biological research, and in many other fields of physical, chemical, and metallurgical science, the use of radioisotopes is adding to man's knowledge of his environment.

More than 100,000 radioisotope shipments have been made from the Oak Ridge National Laboratory, since the first historical shipment in 1946. These have gone not only to every State in the United States, but to more than fifty countries abroad. You are reaping the benefits of this program in some way every day.

### Industrial Uses of Radioisotopes

There are hundreds of industrial applications of radioisotopes. I will mention here a few examples of typical applications.

Radiography with radium or X-rays is a comparatively old method of inspecting metal castings and welds for possible flaws. Reactor produced isotopes, such as cobalt 60 and cesium 137, now are used in much the same way as radium but are much cheaper and more effective. More than 550 firms are licensed to perform radiography with radioisotopes. Through this technique, the firms are able to assure the integrity of many materials and equipment whose soundness and durability must be known in advance.

Thickness gauges, utilizing radioisotopes, are being used routinely on production lines to help produce more uniform paper, aluminum, copper, tinplate, plastics, rubber, glass, and numerous other materials in sheets. The material, whose thickness is to be gauged, is passed between a source of radiation and a radiation detector connected to an amplifier and recording device. In many cases, the signal caused by the radiation transmitted through the material is used to make automatic corrections in the production process. Thousands of such gauges are now in use.

A similar use is made of isotopes in density gauges which determines the density of process fluid flowing through a pipe or the moisture content of sand, or the amount of silt in streams and lakes. A better example for use here in Kentucky is related to the measurement and control of tobacco in cigarettes. More than 3000 density gauges are in use to measure cigarette density. Savings in tobacco alone from use of these gauges have been estimated at more than $40 Million per year.

Another use is that of the radioactive liquid level gauge, which is based on measuring the change in intensity of a beam of radiation from a fixed source. This particular adaptation has been found advantageous in measuring the height of molten metal in a cupola, or the liquid level in a tank or other vessel.

Other uses of radioisotopes in industry are related to the ability of radiation to cause certain materials to emit light or to luminesce. Routine applications of luminescence include such uses as illuminating dials and clocks, railway signal lights, safety lamps, equipment markers, airfield ground markers, and many other similar uses.

The ability of nuclear radiation to ionize materials it strikes—that is, to convert an atom into an electrically charged particle called an ion—has been put to many beneficial industrial uses. For example, static electricity in industry can be a menacing problem to production and personnel. Through use of radioactive static eliminators this problem can be solved in a simple manner.

The most important industrial application or radioisotopes is their use as tracers. Radioisotopes permit materials to be traced in minute quantities. It is easy to detect radiation from isotopes which have been diluted with a billion or ten billion times as much non-radioactive material. This means you could detect and trace one hundred millionth of an ounce of radioactive material dispersed, for example, in a 1,000-pound cow. The material labeled with radioisotopes and traced may determine the measurement of wear of everything from linoleum to piston rings, the determination of the spreadability of paint, and the location of leaks, or control of flow in pipe lines.

Approximately 1700 industrial organizations are authorized to use radioisotopes for industrial purposes.

In short, there are few industrial processes that cannot be made cheaper, faster, or better through the use of radioisotopes.

## Radioisotopes in Agriculture

The farm, too, benefits from the utilization of "tracer atoms." They provide data on fertilizer up-take by plants, on growth rates, metabolism, and insecticide efficiency. Used with farm animals, tracer elements throw new light on the effect of diet on the biochemistry of milk production and egg-laying. Use of radioisotopes as a research tool is helpful in the production and study of new plant strains.

Radioisotopes and radiation have provided many other possibilities for the eradication of harmful insects and livestock pests. Scientists have used rays from radioisotopes to interfere with the reproduction cycles of certain insects. The method is based upon sterilizing large populations of male insects and releasing them with the knowledge that the female mates only once a year and with a single male. The resulting eggs will not hatch. U. S. Department of Agriculture scientists, working with Dutch authorities on the Island of Curacao, have been able by such methods to nearly eliminate screw worm flies which attack livestock with costly damage.

These are but a few of the applications of radioisotopes in agriculture. I think it is fitting to point out that we are only in the infancy of using these valuable tools of research.

### Radioisotopes in Medicine

Medical and biological uses of radioisotopes are divided into three main groups: First, medical and biological research; Second, medical diagnosis; and Third, medical treatment.

Isotope tracer techniques are being used widely in the studies of the normal chemical activities of the body. Tracer techniques are also being used to determine the fate and action of drugs and permit detailed study of the effects of many agents causing bodily harm. Radioactive tracing frequently has been ranked with the microscope in importance to biology and medicine.

In medical diagnosis, as in research, radioisotopes furnish a valuable means for gaining knowledge of body processes. Hundreds of hospitals consider them as part of their regular equipment. Nineteen hundred medical institutions and private practicing physicians have been licensed to use radioisotopes. The various uses can be grouped in the four categories:

(1) Dilution techniques;
(2) Flow measurements;
(3) Biochemical concentration; and
(4) Radiography.

Simple examples of the use of each technique are:

(1) Determination of blood volume;
(2) Determination of the heart's output;
(3) Determination of rate of pickup of iodine in the thyroid; and
(4) The taking of X-ray pictures of foreign objects in the body.

The use of radioisotopes in medical treatment provides a means of destroying or retarding tissue growth similar to but with more flexibility than radium teletherapy. Radioisotopes, such as cobalt 60, cesium 137, and gold 198, are used in direct treatment of cancer and other diseases far more conveniently and cheaply than radium or X-ray machines. Radioactive iodine has proven effective in the treatment of various thyroid conditions.

These are but a few of the many applications of radioisotopes, and the list grows daily.

### Nuclear Heat

The capability of nuclear reactors to produce heat suggests three major areas of application:

First, space and industrial heating;
Second, propulsion; and
Third, generation of electric power.

There have been several special applications of heat from atomic energy for space heating, such as the use of waste heat from one of the Commission's reactors at Hanford, Washington, for heating of adjacent buildings. However, this does not appear to be one of the more important uses of reactor heat because of the distribution problems and cost. Nuclear reactors offer a possibility for the production of process heat for industrial uses, such as paper making, or ore reduction to metal. It is entirely feasible that such energy sources can be located at the site of the raw material, in a remote location, and that an economic advantage will accrue from the savings in shipping costs.

### Nuclear Propulsion

When one considers atomic energy as a new source of energy through application of heat from reactors, it is logical that work would be going forward toward the propulsion of the various vehicles of transportation.

I am sure that you are all aware of the tremendous success experienced by the first atomic submarine, the "Nautilus." The Navy, in conjunction with the Atomic Energy Commission, is moving rapidly ahead in the development of new submarines propelled by atomic energy. Development work is also being conducted in connection with plans for providing nuclear power for large ships.

Recently, the Atomic Energy Commission and the Maritime Administration announced a joint long range program aimed at developing reactor systems to provide commercially competitive propulsion power for merchant ships. Vigorous programs of the Department of Defense and the Atomic Energy Commission are being directed toward the development of aircraft and rockets powered by atomic energy; and private consideration is being given by two railway firms towards an atomic powered locomotive.

These development efforts are of a longer range nature, at least insofar as civilian application is concerned.

### Nuclear Power

It is in the field of the generation of electric power that atomic energy now holds the greatest promise for use of heat from reactors.

The Commission has a very vigorous program within its National Laboratories aimed at production of electric power from nuclear energy. In addition, the Commission has joined hands with industry to broaden the technological base upon which a flourishing new integrated nuclear power industry can be built.

The basic approach adopted to reach the goal of economically competitive power is that of doing research and development simultaneously on a variety of potentially attractive reactor concepts. Just as you have a large variety of types to pick from when you buy a car, there is also a large variety, numbering in the hundreds, of reactor concepts which can produce heat for use in generating electric power. We are not limiting ourselves to one car in the race, but instead are trying to develop several possibilities; and, in time, several different types of reactors will no doubt be able to produce competitive nuclear power.

The Atomic Energy Commission National Laboratories have been participating in the development of new reactor concepts in the early exploratory stages up through the "reactor experiment" or pilot plant. Once the feasibility and the technology of the particular concept has been developed and demonstrated on a pilot plant scale, then the problem is largely one of applying this technology to large-scale plants in order to find out as much as possible about costs of construction, operation, and maintenance. Industry is participating in this phase of the program.

What you are doing essentially when you build an atomic power station is substituting a different type boiler and fuel for the more conventional type steam electric generating plant that burns coal, oil, or natural gas. Since a part of the power station and the entire distribution system will be the same, the real difference from the standpoint of cost will lie in the construction and operation of the new type of boiler and fuel with the related problems of fuel fabrication and reprocessing.

The technical feasibility of atomic power no longer remains in doubt. It has been demonstrated that we can produce electricity safely from a number of types of nuclear reactors. The capacity of American industry for reducing costs of new types of construction and operation with increased experience and rates of usage has been clearly demonstrated by past performance. Much of the construction cost now estimated for nuclear power plants stems in part from lack of experience in the field and includes major items for containment and other safety devices incidental to radioactivity. These major cost items may be expected to be reduced without risk as additional construction and operating experience is gained.

The nation's total generating capacity now is approximately 130,000,000 kilowatts. The requirements are growing at a rate that is equivalent to doubling the capacity every ten years. As a country's need for electric power increases, the rate of usage of chemical fuel will increase progressively also, so that more costly sources of fuel will have to be utilized. The cost of the fuel from the sources now available may be expected to increase also because of the additional competition for fuel and the normal application of the law of supply and demand.

The recent growth of the petrochemical industry suggests that we may soon recognize the value of coal, oil, and gas for their chemical content and consider it wasteful to use these valuable national resources merely for their heat content for the production of electric power.

As you probably are aware the cost of fuel now represents approximately one-half the cost of electric energy. A major increase in the cost of fuel, therefore, would have a very material effect on the cost of generating electric power. In view of the expected reduction in the cost of energy produced from nuclear fuels and the contemplated increase in the cost of electric energy produced from fossil fuels, it is but a matter of time until we will be able to produce nuclear power competitively with conventional plants in most parts of the United States.

Even the most optimistic proponents of nuclear power, however, do not visualize the replacement of fossil fuel by nuclear power, but merely predict the development of nuclear power in time to satisfy part of the contemplated growth requirements of the power industry.

For example, estimates prepared by some experts in the field indicate that the unit cost of nuclear power might be reduced to between six to seven mills per kilowatt-hour by 1980. It is estimated that the United States capability at that time would total 700,000,000 kilowatts of which 32% would be from nuclear power stations, so that the capacity dependent upon fossil fuel power at that time would be more than four times as great as the fossil fuel power capacity today.

### Radioactivity

When one discusses the operation of reactors and the utilization of radioisotopes, the work "radioactivity" is always present. This is a continuing part of the atomic energy industry that must be dealt with. Radioactivity represents a hazard that already has been successfully controlled within the Atomic Energy Commission program. The Commission has an enviable record in this field and one which it and the nation can be justifiably proud. The world has learned to utilize and live with other hazards, such as fire and gasoline. Radioactivity can be controlled just as safely and efficiently.

### Waste Disposal

The question of waste disposal from atomic energy operations must also be considered. This problem in connection with radioisotopes has not been a difficult one because the amounts of radiation are small, and the majority of the radioisotopes are short-lived. On the other hand, disposal of wastes from chemical plants for reprocessing reactor fuel elements involves highly radioactive materials which remain radioactive for many years. Ultimate disposal of these radioactive ashes represents one of the more difficult problems in the field of radioactive waste handling. Storage is expensive and itself represents some possible hazard. The Commission currently is sponsoring an extensive research and development program on better waste treatment and waste handling methods at several of its sites.

### Public Protection

In the growing civilian atomic energy industry, as in any new industry, it is necessary to insure the protection of the public. At the present time, there are certain regulations which the Atomic Energy Commission has established that must be complied with. All users of radioactive isotopes must be licensed and must conform to established standards. Similarly, before any reactor is licensed for operation, the Commission must determine that there is reasonable assurance that such operation will not endanger the health and safety of the public.

Under the Atomic Energy Act of 1954, the Commission is charged with the responsibility not only for fostering the development and growth of atomic energy, but also in its new regulatory capacity to establish and enforce standards to protect the health and safety of the public.

The Commission, in the course of its inspection and enforcement responsibility, hopes to build broader cooperation with the States. The Commission is particularly desirous of having the States participate to a greater degree in the necessary inspection of the institutions which have been licensed to use radioisotopes. There are a number of good reasons for seeking closer cooperation between the Federal and State Governments in the field of atomic energy. We are well aware of the traditional interests of the State in the matters of health and sanitation, the long established State relationship with private industry, and perhaps most importantly the existence of established State inspection functions which can be adapted to local situations.

Many of the States have indicated a real interest in participating in the inspection of licensees, and in most cases their inspectors are accompanying the Atomic Energy Commission inspectors on visits in order to familiarize themselves with the program. The States historically have inspected private industry for compliance with State health and sanitation laws and regulations, and already have a relationship developed with many of the atomic energy licensees.

The shortage of technical personnel in the field of health radiation makes it doubly important that the inspection efforts by State and Federal Governments do not duplicate each other but that they be handled on a cooperative basis in order to utilize technical resources as effectively as possible.

The present cooperative program is carried out in a number of ways. The Commission staff has met on several occasions with representatives of the various State governments. When a license is issued by the Commission, a copy is sent to the appropriate State to keep it advised of the atomic energy activities in that State. In the case of applications by private industry for licenses to build and operate facilities, the States are advised prior to issuance of a license in order that they may offer suggestions or comments related to their interests. States are also advised of inspections scheduled to be made by the Commission of users of radioisotopes, so as to permit participation by State personnel if desired.

At the present time, there is a total of 59 source and by-product material licenses issued by the Commission to firms and institutions located in the Commonwealth of Kentucky.

### Atomic Energy in Kentucky

You might ask about the future of atomic energy in the Commonwealth of Kentucky. In answering such a question, I would have to conclude that because of your favored position in fossil fuel resources that Kentucky will probably be one of the last States to utilize nuclear power. However, it is still possible that because of other advantages of your State that industrial firms may be located here to participate in the supply of nuclear power indirectly to other areas of the country, or possibly the world. Such activities might include the fabrication of fuel elements, or the chemical processing related to the recovery of uranium from spent fuel elements. In addition, the Commission has every reason to believe that industrial use of radioisotopes will expand considerably in the future. It is logical, therefore, to assume that the industrial firms within the Commonwealth of Kentucky will share fully in the benefits potentially available through utilization of radioisotopes.

Similarly, educational and research establishments in Kentucky will undoubtedly use radioisotopes in furthering their research programs, and your doctors and your hospitals will take advantage of the opportunities to utilize radioisotopes for diagnosis and treatment. Consequently, the number of licensees of source and by-product material within Kentucky can be expected to grow progressively in the future.

There is much work to be done in the training of technically qualified people to participate in this new industry. There is also a great need for public education to develop an enlightened constructive attitude towards these new tools that are available for the benefit of mankind, so as to foster their safe and effective use.

Thus, in summary, there is a bright future ahead of us in the field of radiation, industrial, agricultural, and medical uses of isotopes, and in the field of nuclear power.

The Commonwealth of Kentucky is already participating in a major part of the Atomic Energy Commission's program and is well situated to avail itself of its full share of the benefits promised by this new atomic energy industry.

I give you our thanks for the assistance that the Atomic Energy Commission has received from the Commonwealth of Kentucky and wish you success in taking advantage of the potential benefits of this new industry.

Senator Bassett moved that the Joint Session be adjourned. Agreed.

Reassembled in the Senate Chamber, the Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

### Orders of the Day

**SB 8** taken from the Orders of the Day and ordered read at length for the third time. Senator Ware moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Ware moved the Previous Question on **SB 8**. Agreed.

On roll call, the vote was yeas 27—Anggelis, Bassett, Blue, Bonn, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, McCann, Miller, Overbey, Reuscher, Robinson, Van Hoose, Ware. Nays 0.

**SB 8** was passed and the title agreed to.

**SB 117** taken from the Orders of the Day and ordered read at length for the third time. Senator Duffy moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Duffy moved the Previous Question on **SB 117**. Agreed.

On roll call, the vote was yeas 25—Anggelis, Bassett, Blue, Bonn, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, McCann, Miller, Overbey, Van Hoose, Ware. Nays 0.

**SB 117** was passed and the title agreed to.

Senator Overbey assumed the Chair.

**SB 119** taken from the Orders of the Day and ordered read at length for the third time. Senator Duffy moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Duffy moved the Previous Question on **SB 119**. Agreed.

On roll call, the vote was yeas 26—Anggelis, Bassett, Blue, Bonn, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Lucas, McCann, Miller, Overbey, Reuscher, Van Hoose, Ware, Willis. Nays 0.

**SB 119** was passed and the title agreed to.

Lieutenant Governor Harry Lee Waterfield assumed the Chair.

### Introductions

Senator Overbey moved to suspend the Rules for the purpose of introducing a bill. Agreed.

**SB 234**, by Senator Overbey: AN ACT relating to a tax on airlines.

### Orders of the Day

**SB 115** taken from the Orders of the Day and ordered read at length for the third time. Senator Duffy moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Duffy moved the Previous Question on **SB 115.** Agreed.

On roll call, the vote was yeas 29—Anggelis, Bassett, Blake, Blue, Bonn, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, McCann, Miller, Overbey, Reuscher, Robinson, Van Hoose, Ware, Willis. Nays 0.

**SB 115** was passed and the title agreed to.

Senator Duffy moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

### Introductions

Senator Bassett moved to suspend the Rules for the purpose of introducing a bill. Agreed.

**SB 235**, by Senator Bassett: AN ACT relating to the licensing, recording of liens and registration of motor vehicles.

### Orders of the Day

**SB 178** taken from Orders of the Day. Senator Ware moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 200** taken from the Orders of the Day and ordered read at length for the third time. Senator Knuckles moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Lucas proposed Amendment No. 1 to **SB 200.**

Amend printed copy of **SB 200** on page 2, section 4, line 1 by striking the figure $25,000 and substituting in lieu thereof the following: "$30,000".

Senator Lucas moved the adoption of said Amendment.

Adopted by voice vote.

Senator Lucas proposed Amendment No. 2 to **SB 200.**

Amend printed copy of **SB 200** on page 2, section 5, line 1 by striking line 1 and substituting in lieu thereof the following:

Section 5. Whereas the citizens of Middlesboro, London and surrounding communities are now in

Senator Lucas moved the adoption of said Amendment.

Adopted by voice vote.

Senator Hamilton moved to amend the title of **SB 200.**

Title Amendment to **SB 200.**

Title amend – strike the period after the word emergency and add the following: "and to be known as the Knuckles and Lucas Bill."

Adopted by voice vote.

Senator Knuckles moved the Previous Question on **SB 200.** Agreed.

On roll call, the vote was yeas 29—Anggelis, Bassett, Blake, Blue, Bonn, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, McCann, Miller, Overbey, Reuscher, Robinson, Van Hoose, Ware, Willis. Nays 0.

**SB 200** was passed and the title agreed to.

### Recess

Senator McCann moved that the Senate do now recess for ten minutes. Agreed. At the appointed hour, the President called the Senate to order.

### Motions

Senator Knuckles moved to suspend the Rules for the purpose of granting Ray Moss, a former member of the Senate, the privilege of the floor. Agreed.

### Orders of the Day

**SB 143** taken from the Orders of the Day. Senator Bassett moved that consideration of said bill be deferred and that it retain its place in Orders of the Day.

**HB 205** taken from the Orders of the Day and ordered read at length for the third time. Senator Ware moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Willis proposed an Amendment to **HB 205.**

Amend printed copy of **HB 205** on page 2, section 1, line 6. Insert following the word "Grandmother's" and preceding the word "day" the words "and mothers-in-law"

Senator Willis moved the adoption of said amendment.

Lost on voice vote.

Senator Ware moved the Previous Question on **HB 205.** Agreed.

On roll call, the vote was yeas 29—Anggelis, Bassett, Blake, Blue, Bonn, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, McCann, Miller, Overbey, Reuscher, Robinson, Van Hoose, Ware, Willis. Nays 0.

**HB 205** was passed and the title agreed to.

Senator McCann moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

### Report of Committees

Senator Blue moved suspension of the Rules for the purpose of making a Committee Report. Agreed.

Committee on Conservation reported **SB 163, SB 116** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 163:** AN ACT relating to hunting and fishing.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. (1) Any citizen of the Commonwealth who has a medical disability brought about through military service in World War I, World War II or the Korean conflict may make application to the Department of Fish and Wildlife Resources, upon a form furnished by the department, for a hunting or fishing license. The department shall make reasonable regulations for establishing proof of such service-connected disability or service aggravated condition.

(2) Upon presentation of evidence of such disability and determination that public safety will not be endangered thereby, the department shall issue a hunting or fishing license without cost to such applicant.

**SB 116:** AN ACT relating to county forests.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 149.230 of the Kentucky Revised Statutes is amended to read as follows:

(1) Upon the estimate and recommendation of the fiscal court, the Budget Commission, at the time of fixing the rate of the tax levies and making the appropriations for said county, may fix a tax levy which shall be uniform throughout the county for the purpose of creating and maintaining a county forestry fund and may make appropriations from such fund or from the general fund for the purchase and acquisition by the fiscal court of lands to be owned, held and maintained by such county for a permanent public forest.

(2) Where the funds acquired through operation of county forests pursuant to Section 2 thereof are insufficient for proper maintenance of such permanent public forests and where the fiscal court has by proper resolution delegated the supervision and maintenance of such forest to a park, playground and recreation board, or any other board, created pursuant to Chapter 97 of the Kentucky Revised Statutes, the fiscal court may appropriate from the forestry fund or from the gen-

eral fund such sums as it feels are necessary for the proper maintenance of forest lands of said county.

Section 2. Section 149.250 of the Kentucky Revised Statutes is amended to read as follows:

(1) Any land which shall be acquired by any county for the purpose of a permanent public forest under the provisions of KRS 149.200 to 149.270, if not growing in timber at the time of acquisition, shall be planted to trees within a period of ten years after being acquired and any county is hereby empowered to raise a sufficient sum by taxation to reforest any such land within the required period of time. All revenue derived from such forest land by the sale of timber or otherwise shall accrue to the use of the county owning and holding such land. Such revenue shall be applied first to the upkeep and maintenance of such public forest and secondly for the purchase and acquisition of such additional lands as shall be determined upon by said fiscal court and the remainder of such revenue shall be used by the county owning and holding such forest land as the fiscal court shall determine from year to year.

(2) Whenever a fiscal court has delegated the power to maintain a county forest pursuant to Section 4 hereof, to a park, playground and recreation board, organized under Chapter 97 of the Kentucky Revised Statutes, the planting of trees in said forest and the harvesting of said forest shall be managed by such board so long as said power is delegated to it and revenue received from said forestry operation, including the sale of timber or otherwise, may be expended by such board in the reasonable upkeep and maintenance of such public forest.

Section 3. Section 149.260 of the Kentucky Revised Statutes is amended to read as follows:

(1) All lands acquired under the provisions of KRS 149.200 to 149.270 shall be protected at all times, as far as possible, from fire and grazing, and shall be kept and maintained as a permanent public forest, and the timber growing thereon shall be cut in accordance with approved forestry methods and in such manner as to perpetuate succeeding stands of trees. All such forest lands shall be open to the use of the public for recreational purposes so far as such recreational purposes do not interfere with, or prevent the use of such lands to the best advantage as a public forest.

(2) Whenever the fiscal court of a county has delegated maintenance and operation of a forest as provided in Section 4 of this Act to a duly organized park, playground and recreation board, or other board created under Chapter 97 of the Kentucky Revised Statutes, the management of recreation and recreational facilities in such park shall be vested in such board.

Section 4. Section 149.270 of the Kentucky Revised Statutes is amended to read as follows:

(1) Such public forests shall be under the supervision of the fiscal court and it is hereby authorized and empowered, either separately or in cooperation with other boards or commissions, to employ necessary and competent supervisors and laborers to properly protect and care for such forests and to perform the necessary duties connected therewith and any court owning and holding land as a public forest shall at all times have the privilege of obtaining the advice, counsel and cooperation of the Division of Forestry in the Department of Conservation in the planting of trees, the marketing of timber, the prevention of fire, and in any matter pertaining to the efficient maintenance of such public forest, provided however that where a park, playground and recreation board, or any other board, has been established in a county by action of a fiscal court as authorized by Chapter 97 of the Kentucky Revised Statutes, the fiscal court may by resolution delegate to such board, the management, control and operation of such forest including the employment of supervisors and laborers.

### Orders of the Day

**SB 86** taken from the Orders of the Day and ordered read at length for the third time. Senator Miller moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Miller moved the Previous Question on **SB 86.** Agreed.

On roll call, the vote was yeas 22—Anggelis, Blue, Cornett, C. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Lucas, Miller, Reuscher, Robinson, Van Hoose, Ware, Willis. Nays 1—Blake.

**SB 86** was passed and the title agreed to.

Senator Miller moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 155** taken from the Orders of the Day and ordered read at length for the third time. Senator Knuckles moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Bassett moved that **SB 155** be recommitted, and Senators Bassett and Anggelis demanded a roll call on said motion.

On roll call, the vote was yeas 7—Anggelis, Bassett, Bonn, Duffy, Hickerson, Howell, Overbey. Nays 18—Blake, Blue, Clay, Cornett, C. H. Davis, Mrs. J. Harry Davis, Fields, Francis, Freeman, Jackson, Kelly, Knuckles, Lucas, Miller, Reuscher, Van Hoose, Ware, Willis.

The motion lost.

Senator Knuckles moved the Previous Question on **SB 155.** Agreed.

On roll call, the vote was yeas 22—Blue, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, Miller, Reuscher, Robinson, Van Hoose, Ware. Nays 8—Anggelis, Bassett, Blake, Bonn, Duffy, McCann, Overbey, Willis.

**SB 155** was passed and the title agreed to.

Senator Knuckles moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

Committee Substitute for **SB 130** taken from the Orders of the Day and ordered read at length for the third time. Senator Fields moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Fields moved that the Committee Substitute for **SB 130** be adopted.

Committee Substitute for **SB 130:** AN ACT relating to rest periods for women.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. No employer shall require any female to work for more than four (4) hours without rest periods for at least ten (10) minutes. This shall be in addition to the regularly scheduled lunch period. No reduction in compensation shall be made for hourly or salaried employees.

The rest period shall be optional with all employees.

Section 2. Any employer who violates Section 1 of this Act shall be fined not less than ten (10) dollars nor more than fifty (50) dollars.

Adopted by voice vote.

Senator Fields moved the Previous Question on **SB 130** by way of Committee Substitute. Agreed.

On roll call, the vote was yeas 25—Anggelis, Bassett, Blue, Bonn, Clay, C. H. Davis, Mrs. J. H. Davis, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, McCann, Miller, Reuscher, Robinson, Van Hoose, Ware. Nays 2—Blake, Duffy.

**SB 130** was passed and the title agreed to.

Senator Fields moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 154** taken from the Orders of the Day. Senator Miller moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

## Reference of Bills

The President announced referral of the following bills:

Ways and Means: **SB 226, HB 25, HB 32.**

Executive and Legislative Affairs: **SB 227, SB 228, SB 229, HB 90.**

Suffrage, Elections and Constitutional Amendments: **SB 230.**

Education: **SB 231.**
Health and Welfare: **SB 232.**
Judiciary: **SB 233.**

### Motions

Senator C. H. Davis moved to suspend the Rules for the purpose of appointing Honorary Pages in the Senate. Agreed.

Senator C. H. Davis moved that Frankie Dean Ratliff, Donna Jean Ratliff, Mark Douglas Allen, Michael Eugene Wilson, Nicky Lydell Wilson, Ricky Lynn Wilson, and Patty Joe Motley be made Honorary Pages of the Senate. Agreed.

Senator Fields moved that Linda Carol Mayo, Patricia Ann Noble, and Maudella Grace Noble be made Honorary Pages of the Senate. Agreed.

Senator Van Hoose moved that Gordon May be made an Honorary Page of the Senate. Agreed.

Senator Hamilton moved that Edward Cornelius Nickles, James R. King, Randy King, Charlie Joe Finley, Henry W. Finley, Mary Louise Finley, Scotty Holt, Robin Oldham, Terry Berlew, Nicky McFarland, Carla Hassloch, James C. Cantrill, Corrine Cantrill, Virginia Blackburn, Lewis Finley, Louise Lewis, Ann Theodore, Stephen Theodore, Jane Brown Prather, Stella Platt, Chester Lewis, Mike Courtney, Dan Courtney, Leonard Spillman, and Gregg True be made Honorary Pages of the Senate. Agreed.

Senator Bassett moved adjournment until 1:00 p.m., Friday, February 21, 1958. Agreed.

## FRIDAY, FEBRUARY 21, 1958

## THIRTY-SEVENTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend John C. Chenault of the First Christian Church of Frankfort.

The roll was called. All members present except Senators Mrs. J. Harry Davis, Fields, Freeman, Jackson, Kidwell, Melton, Overbey, Warinner, and Young, who were granted leave of absence on motion of Senator McCann.

The reading of the Journal for Thursday, February 20, 1958, dispensed with and the same approved on motion of Senator McCann.

### Motions

Senator Duffy moved that William Richard Herron be made an Honorary Page of the Senate. Agreed.

Senator Duffy moved that Robert Moss Hardy, Jr. be made an Honorary Page of the Senate. Agreed.

### Report on Enrolled Bills

Committee on Enrollment reported that **HB 67, HB 119** has been examined and found correctly enrolled. Said bills read at length, compared, and signed in open session by the President. Ordered that the original and enrolled copies be delivered to the House.

### Motions

Senator Anggelis moved that **SB 84** be made a special order of business after the reading of the Calendar. Agreed.

### Introductions

**SB 236,** by Senator Hamilton: AN ACT relating to veterinarians.

**SR 54,** by Senator Greene: A RESOLUTION memorializing the Congress of the United States to place the proposed postal rate increases on the classes of mail presently losing money.

WHEREAS, the Senate Post Office Committee by a vote of seven to six on Thursday, February 20, 1958 approved a bill which would increase the postal rates for first class letters mailed out of town to five cents per letter, local first class letters to four cents per letter, air mail letters to eight cents per letter, and would increase by 30 per cent the rate for second-class mail; and

WHEREAS, the proposed bill continues to favor the users of third and fourth class mail at the expense of the users of first and second class mail; and

WHEREAS, it is the third and fourth class types of mail which are primarily responsible for the deficit operation of the United States Postal Service; and

WHEREAS, the taxpayers and ordinary users of the mail under present rates are forced to subsidize certain types of mail order businesses and periodicals; and

WHEREAS, the bill approved by the Senate Post Office Committee would not only continue this forced subsidization by the taxpayers and ordinary users of the mail, but would further increase this unfair burden.

NOW, THEREFORE,

*Be it resolved by the Senate of the Commonwealth of Kentucky:*

Section 1. That the Congress of the United States is urged to place the proposed increases in postal rates on the classes of mail presently causing the deficit operation of the United States Post Office Department.

Section 2. Should the Congress of the United States impose any increases in the postal rates, it is requested they be imposed on third and fourth classes of mail thereby relieving the excessive burden of subsidizing these types of mail from the taxpayers and ordinary users of the mail.

Section 3. That the Clerk of the Senate is directed to forward copies of this resolution, duly authenticated, to the President and Chief Clerk of the United States Senate, to the Speaker and Chief Clerk of the United States House of Representatives, to each of the Senators and Representatives from Kentucky now serving in the Congress, and to the Post Master General of the United States.

Senator Greene moved the adoption of said resolution. Adopted by voice vote.

**SR 55**, by Senator Richmond: A RESOLUTION authorizing the Adjutant General of Kentucky to certify the service of Harold R. Morris in the 3rd Infantry of the Kentucky National Guard.

**SB 237**, by Senator Bassett: AN ACT relating to employes' retirement.

**SB 238**, by Senator Bassett: AN ACT relating to powers of governmental agencies.

**SB 239**, by Senator Richmond: AN ACT relating to crude oil purchases.

**SB 240**, by Senator Richmond: AN ACT relating to insurance, and amending certain sections of Chapter 304 of the Kentucky Revised Statutes.

**SB 241**, by Senator Clay: AN ACT relating to jurisdiction of constables.

**SB 242**, by Senator Hamilton: AN ACT relating to poliomyelitis.

## Report of Committees

Committee on Ways and Means reported **SB 207** with Committee Amendment attached thereto, **SB 195** with Committee Amendment attached thereto, **SB 65**, **SB 223**, **SB 220**, **HB 25** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 207:** AN ACT relating to parking meters.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. No parking meters shall be installed in any city of any class after the effective date of this Act; nor shall any parking meters be serviced or repaired after the effective date of this Act.

Section 2. Any person or persons violating or responsible for the violation of Section 1 of this Act shall be fined not less than one hundred dollars nor more than five hundred dollars. Each parking meter installed and each day that such parking meter remains installed shall be a separate offense within the meaning of this Act.

**SB 195:** AN ACT relating to city attorneys.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 69.560 of the Kentucky Revised Statutes is amended to read as follows:

The legislative body of each city of the fourth class, except those operating under the commission or city manager form of government, as soon as it is organized or as soon thereafter as practicable, and biennially thereafter, may appoint a city attorney, or it may provide by ordinance at least sixty days previous to any election that the city attorney be elected by the qualified voters of the city at the same time and for the same term that the police judge is elected. The city attorney must be a practicing attorney, and a resident of the city. The city attorney shall hold his office for a term of two years, subject to removal at any time for good cause by the city legislative body. He shall prosecute all pleas of the Commonwealth and all warrants or proceedings instituted for violation of the ordinances or municipal regulations of the city in the police court, attend the meetings of the city legislative body, advise it in all matters of litigation or legal proceedings, and perform any other duties in his department required by the city legislative body. The city legislative body shall fix his compensation by ordinance before his appointment or election.

**SB 65:** AN ACT relating to transactions between florists and funeral directors.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. No florist shall pay a commission or rebate to an embalmer or funeral director as consideration for that person's having recommended purchase of flowers from him.

Section 2. No embalmer or funeral director shall accept a commission or rebate from a florist as consideration for having recommended purchase of flowers from that florist.

Section 3. Any person who violates this Act shall be fined not less than two hundred dollars for each offense.

**SB 223:** AN ACT relating to the political rights of employes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. No employer having regularly in his employ eight or more employes shall make, adopt, or enforce any rule, regulation, or policy forbidding or preventing any of his employes from engaging or participating in politics, or from becoming a candidate for public office. No such employer shall adopt or enforce any rule, regulation, or policy which will control, direct, or tend to control or direct the political activities or affiliations of his employes, or coerce or influence, or attempt to coerce or influence any of his employes by means of threats of discharge or of loss of employment in case such employes should support or become affiliatied with any particular political faction or organization, or participate in political activities of any nature or character.

Section 2. Any individual person violating the provisions of this Act shall be fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned for not more than six months, or both; and any firm, corporation or association violating its provisions shall be fined not less than five hundred dollars nor more than two thousand dollars.

Section 3. Nothing herein contained shall in any way be construed to prevent the injured employe from recovering damages from the employer as a result of suffering caused by the employer's violation of this Act.

**SB 220:** AN ACT relating to holidays.

WHEREAS, the many Grandfathers Clubs of the Commonwealth of Kentucky, affiliated with the National Federation of Grandfathers Clubs of America, have, in conjunction with the parent organization, the most laudable purposes and objectives as reasons for their chartering and continued existence, among them being encouragement of good citizenship, furtherance of social and educational programs and dedication to scientific research directed toward the elimination of children's diseases;

WHEREAS, Grandfathers as individuals, hold a very special and inviolate place in the hierarchy of families and are the object of universal love, respect and admiration;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The Governor is authorized and requested to issue annually a proclamation calling upon the state officials to display the United States flag on all state and school buildings and the people of the state to display the flag at their homes, lodges, churches, places of business and other suitable places on the second Sunday in December, known as Grandmother's Day as a public expression of the love, esteem and reverence in which grandmothers are held by the citizens of the Commonwealth.

**HB 25:** AN ACT relating to the offense of shoplifting and providing penalties therefor.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. (1) Any person who takes merchandise offered for sale by any store or other mercantile establishment with the intention of converting the same to his own use without paying the purchase price therefor, shall be fined not more than three hundred dollars or imprisoned not more than six months for the first offense. For a second offense he shall be fined not more than five hundred dollars and imprisoned not more than six months, and for a third offense shall be imprisoned not less than one nor more than five years.

(2) Willful concealment of unpurchased merchandise of any store or other mercantile establishment on the premises of such store shall be prima facie evidence of concealment with intention of converting same to personal use without paying the purchase price therefor.

Section 2. A peace officer, merchant or merchant's employee who has probable cause for believing that goods held for sale by the merchant have been unlawfully taken by a person, and that he can recover same by taking the person into custody, may, for the purpose of attempting to effect recovery, take the person into custody and detain him in a reasonable manner for a reasonable length of time.

Committee on Executive and Legislative Affairs reported **HB 157, SB 205, HB 90** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 157:** AN ACT relating to schools for handicapped children and making an appropriation thereto.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. In enacting this legislation it is the intention of the General Assembly to provide special financial support for the education of handicapped and retarded children in recognition of the additional costs of facilities for such education.

Section 2. State funds may be appropriated to any county or independent school district maintaining a separate school for the benefit of handicapped and retarded children, in addition to funds presently provided. To be eligible for such additional support, such schools shall be operated as a separate school and shall have adequate facilities to take care of at least twenty pupils. Such facilities in any school shall be made available to handicapped and retarded children from other districts to the extent of available facilities. Any school to become eligible shall be approved by the State Department of Education.

Section 3. There is hereby appropriated out of the General Fund the sum of $7,500 for each of the 1958-1959 and 1959-1960 fiscal years to every school district providing facilities of the type described in Section 1. Thereafter the Department of Education shall provide special appropriations for the purposes of this Act in its regular biennial appropriations.

**SB 205:** AN ACT relating to the standard of time.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. No county, city, town, municipal corporation, agency or instrumentality of the Commonwealth shall employ any time or adopt any ordinance, resolution or order providing for the use of any time other than that specified in KRS 2.160.

Section 2. The Commissioner of Finance shall not draw any warrant upon the State Treasurer for the payment of Commonwealth funds to any county, city, town, municipal corporation, agency or instrumentality of the Commonwealth which uses or employs any time or which has adopted or hereafter adopts any ordinance, resolution or order providing for the use of any time other than that specified in KRS 2.160.

**HB 90:** AN ACT relating to vocational rehabilitation services to the blind.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. (1) There is created within the State Rehabilitation Agency in the Department of Education a division of services for the blind.

(2) The division shall consist of a director and such other employes as the Department of Education shall determine.

Section 2. There is created an advisory committee to advise the director concerning the activities of the division. The committee shall consist of not less than five members appointed by the Governor for terms of four years, or until their successors are appointed and qualified. At least two members of the committee shall be blind persons who have a known interest in and a demonstrated knowledge of the problems and needs of the blind. No state employe shall be a member of the committee. Members of the committee shall serve without compensation, but shall be reimbursed for actual expenses incurred in service on the committee.

Section 3. Section 163.150 of the Kentucky Revised Statutes is amended to read as follows:

(1) The State Rehabilitation Agency in the Department of Education, with the approval of the Superintendent of Public Instruction and the State Board of Education shall establish and maintain a business enterprise program for the blind. In connection therewith the agency shall be authorized to own, lease, manage, supervise and operate vending stands and other business enterprises for the use or benefit of blind persons in federal, state, private and other buildings.

(2) The share of expenses of this program to be charged to each enterprise shall not exceed three percent of the gross receipts of such enterprise above the amount of one hundred and twenty-five dollars gross sales per week, the first one hundred and twenty-five dollars per week being exempt from any such fee.

(3) One or more stand placement agents shall be employed to locate and establish additional vending stands.

Section 4. (1) To meet the needs and special problems of the blind, the portion of the budget provided for vocational rehabilitation services for the blind and the apportionment for other vocational rehabilitation services shall be separately established and maintained.

(2) All vocational rehabilitation services for the blind, under both state and federal appropriation, shall be channeled through the division of services for the blind.

Committee on State and County Government reported **SB 162** with Committee Amendment attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 162:** AN ACT relating to establishment of Public street lighting districts.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Public street lighting districts may be established in the following manner:

(1) A petition signed by at least fifty-one percent of the voters, as determined by the registration books covering such territory, shall be filed in the office of the circuit court clerk of the county in which the greater part of the proposed district is located not less than twenty days before the first day of the next calendar month, notice of the filing of such petition and the object thereof having been published in two issues of some newspaper of general circulation in the county, and by notices posted for at least ten days before the commencement

of the said court, one at the courthouse door, and three others at public places within the bounds of the proposed public street lighting district, the petition setting out the metes and bounds of the proposed public street lighting district to include only property within three hundred feet from the center of the portion of the street or highway proposed to be illuminated, the number of voters thereof, and such other facts as may be thought proper.

(2) On the second day of the term, and in courts of continuous session on the day provided for in such notice, the court shall, if proper notice has been given, and publication made, and no written objection, remonstrance or defense is interposed, enter a judgment establishing a public street lighting district in accordance with the prayer of the petition, naming it, and describing the boundary thereof by metes and bounds.

(3) Defense, objection or remonstrance may be made to the petition by any inhabitant of the proposed public street lighting district, or any person owning property therein. In such case, the court shall hear the case and render a judgment establishing or refusing to establish the public street lighting district as may seem proper. Such proceeding shall be in accordance with the Rules of Civil Procedure.

(4) In no event shall any public street lighting district include within its metes and bounds any territory which is more than three hundred feet from the center of the part of the street or highway sought to be illuminated.

Section 2. (1) The county judge shall call an election in such district, to be held not later than thirty days after entry of the judgment. Thereafter an election shall be held on the first Saturday in May of each year. All registered voters, as determined by the registration books covering such territory, and no other, shall be eligible to vote. At such election three public street lighting district trustees shall be elected, who shall be resident taxpayers and voters of the public street lighting district. The first trustees elected shall hold office as follows: The candidate receiving the highest number of votes shall be elected for a term of three years; the candidate receiving the second highest number of votes shall be elected for a term of two years, and the candidate receiving the third highest number of votes shall be elected for a term of one year. In case of tie, the issue shall be determined by lot. On the expiration of terms of offices, the successor of the trustee whose term has expired shall be elected for a term of three years. In the event of a vacancy in any term, and there are two remaining trustees, the remaining trustees shall elect a trustee to fill out the unexpired term. If there are less than two trustees remaining the county judge shall fill the vacancies. All trustees shall hold office for the terms of their election and until their successors are elected and qualified.

(2) Such persons as are delegated by the county judge for that purpose shall preside at the election in each public street lighting

district. Said election shall be held on the day designated by the county judge at such places in the district selected by the county judge, and shall be by printed ballot, the polls to be open from 6:00 a.m. to 5 p.m. The county judge shall make regulations for the tabulation of the ballots, such tabulation to be held immediately upon the close of the polls. All expenses incident to such election, including the providing and printing of ballots, shall be paid out of the funds of the district.

(3) Such trustees shall elect from their number a chairman and a secretary and treasurer, the latter of whom shall give bond in such amount as shall be determined by the county judge of the county in which the public street lighting district is located, conditioned upon the faithful discharge of the duties of his office, and the faithful accounting for all funds which may come into his possession. The premiums on such bonds shall be paid out of the funds of the district.

Section 3. The territorial limits of an established public street lighting district as established under this Act may be enlarged or diminished in the following way:

(1) The public street lighting district trustees shall file a petition in the circuit court clerk's office of the county in which that district and the territory to be annexed or stricken off, or the greatest part thereof, is located, not less than thirty days before the next regular term of said court, and in courts of continuous session not less than thirty days before the first day of a succeeding calendar month describing the territory to be annexed or stricken and setting out the reason therefor. Notice of the filing of such petition shall be given by publication and posting in the same manner as provided for in subsection (1) of Section 1 of this Act.

(2) On the second day of the term, and in courts of continuous session on the day fixed in the notice, the court shall, if the proper notice has been given, and publication made, and no written defense, objection of remonstrance in interposed enter a judgment annexing or striking off the territory described in the petition.

(3) Fifty-one percent or more of the freeholders of the territory sought to be annexed or stricken off may, at any time before the next regular term of said court and in courts of continuous session at any time before the date fixed in the notice, remonstrate in writing, filed in the clerk's office, to the action proposed. If such written remonstrance be filed said clerk shall promptly give notice to the trustees of the public street lighting district, and the court shall promptly set the case for hearing. If, upon such hearing, the court finds from the evidence that a failure to annex or strike off such territory will materially retard the functioning of the public street lighting district and materially affect adversely the owners and inhabitants of the territory sought to be annexed or stricken off, it shall enter a judgment granting the annexation or striking off of the territory. In the latter event,

no new petition to annex or strike off all or any part of the same territory shall be entertained for a period of two years. The pleadings and practice herein provided shall be the same as in civil cases, and in accordance with the Kentucky Rules of Civil Procedure.

Section 4. The property in any territory annexed to a public street lighting district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the public street lighting district prior to the date of the annexation of such territory. The property in any territory stricken off from a public street lighting district shall not be relieved of liability of such taxes as may be necessary to pay its proportionate share of the indebtedness incurred while such territory was a part of that district.

Section 5. The trustees of a lighting district are hereby authorized to establish and operate a public street lighting district and to levy a tax upon the property in said district, subject to county tax, and not exceeding thirty cents per one hundred dollars of evaluation as assessed for county taxes, for the purpose of defraying the expenses of such establishment, maintenance, erection, and operation of said public street lighting department or district, or to make contracts for public street lighting for such district. After the tax has been levied as herein provided, such trustees shall certify the same to the sheriff of the county in which the public street lighting district is located, who shall collect such tax when and as the county taxes are collected by him. Any delinquent public street lighting district taxes shall be subject to the same interest and penalties as do delinquent county taxes. For the collection of the tax the sheriff shall be entitled to a commission of one percent of the amount collected.

Committee on Executive and Legislative Affairs reported **SB 54** with the expression of opinion that the same should pass by way of Committee Substitute. Committee Substitute for **SB 54** read at length for the first time and ordered placed in the Calendar.

COMMITTEE SUBSTITUTE FOR SENATE BILL 54

AN ACT relating to trial commissioners appointed by county judges.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 25.280 of the Kentucky Revised Statutes is amended to read as follows:

The county judge of each county, except a county containing a first-class city, may appoint one or more trial commissioners. The appointments shall be subject to the approval of the fiscal court, and the fiscal court shall not approve the appointment of more than one commissioner for each thirty thousand people, or fractional part thereof, in the county. The commissioner shall hold office at the pleasure of the judge, and shall discharge such judicial duties of the judge of the county court and the judge of the quarterly court as may be assigned to him by the judge. The commissioner shall report his actions to the judge for the approval or disapproval of the judge. The commissioner must possess the qualifications of a judge of the county court. He shall receive a salary to be fixed by the fiscal court of the county. The salary of the commissioner shall be paid in the same way as the county judge is paid.

Section 2. Whereas the lack of criminal jurisdiction in the justice's courts of the Commonwealth has increased the criminal dockets in county courts and quarterly courts, creating a need for trial commissioners, an emergency is declared to exist and this Act shall take effect upon its approval by the Governor.

Committee on State and County Government reported **SB 153** with Committee Amendment attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 153**, AN ACT relating to tax supervisors.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 133.030 of the Kentucky Revised Statutes is amended to read as follows:

(1) The board of supervisors shall convene at the county seat on the first week day in May in 1954 and on the second Monday in May in each year thereafter, except that no meeting shall be held until the tax roll has been completed and until after the inspection period provided by law. All records of the county tax commissioner shall be available to the board of supervisors while meeting.

(2) The board of supervisors shall continue in session until all appeals are heard and decided; except that it shall not continue in session more than ten days after it convenes in 1954 nor more than five days after it convenes in each year thereafter, unless an extension of time is authorized by the Department of Revenue upon request of the county judge. Each supervisor shall be paid twenty-five dollars for each day he serves, except that if the board consists of more than three members, each supervisor shall be paid ten dollars for each day he serves. This compensation shall be paid one-half out of the county levy and the other half out of the State Treasury.

Committee on State and County Government reported **SB 135** without expression of opinion.

Committee on Municipalities reported **SB 120, SB 80, SB 209, SB 149, HB 15, HB 111, HB 42** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 120**: AN ACT relating to city manager form of government, election and term of commissioners, mayor and police judge.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 89.430 of the Kentucky Revised Statutes is amended to read as follows:

(1) In cities of the second and fourth classes, at the first regular election at which the mayor or police judge of the city is elected after the election at which the city manager form of government was adopted, there shall be elected by the qualified voters of the city four commissioners and a mayor, or police judge, as the case may be.

(2) In cities of the third class, at the first regular election at which the mayor of the city is elected after the election at which the city manager form of government was adopted, there shall be elected by the qualified voters of the city four commissioners and a mayor. The police judge shall be elected at the same time as he would have been elected if the city manager form of government had not been adopted.

(3) In cities of the second, third and fourth classes the commissioners shall serve for terms of two years and the mayor for a term of four years, beginning on the first Monday in January following their election. The police judge shall serve for a term of four years, beginning on the first Monday in January following his election in cities of the second and fourth classes, and on the first Monday in December following his election in cities of the third class. Every second year after the election at which commissioners were elected, and every fourth year after the election at which a mayor or police judge was elected, a primary election and regular election shall be held in the same manner for the same offices.

(4) The city manager form of government shall become effective and go into operation upon the qualification and installation in office of the mayor, or police judge, as the case may be, and the commissioners.

**SB 80:** AN ACT relating to sewer line improvements in cities of second to sixth classes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Any city that undertakes a sewer line improvement, as defined in KRS 94.010 (2), under the provisions of KRS 94.291 to 94.325 shall have the alternative of providing, in the original ordinance adopted pursuant to KRS 94.295, that the improvement tax for such portion of the cost of the improvement as is to be assessed upon benefited property shall be apportioned and levied and be payable in two installments in accordance with the provisions of this Act. In such event KRS 94.316 to 94.322 shall not be applicable, but all of the other provisions of KRS 94.291 to 94.325, except where inconsistent with this Act, shall be applicable to the improvement project.

Section 2. The first installment shall be based upon an estimate of the cost of the work; and a certificate of apportionment based thereon, made and accepted before the opening of bids for the work. The estimate of cost and the certificate of apportionment shall be made, and the procedure upon the same shall be the same, as provided in KRS 94.309 for final certificates of apportionment, except that any references in KRS 94.309 to inspection and acceptance of the "work" shall be deemed to refer to inspection and acceptance of the estimate of cost and certificate of apportionment, and the tax levied upon the certificate against each lot or parcel of benefited property shall be in the amount of one-half of the estimated cost apportioned against such lot or parcel in the certificate of apportionment. The tax so levied shall be payable as prescribed in KRS 94.309, 94.313, 94.314 and 94.315.

Section 3. The levy of the first installment of the tax shall be so made that the tax will be payable before the commencement of work on the improvement. The proceeds of the tax shall be available for progress payments to the contractor in accordance with KRS 94.308.

Section 4. When the work has been completed a final certificate of apportionment shall be made and accepted in accordance with the provisions of KRS 94.309, apportioning the total cost of the improvement assessable upon benefited property. The amount of the tax levied under Section 2 of this Act against each lot or parcel shall be deducted from the amount of total cost apportioned against such lot or parcel, and a tax shall be levied in accordance with subsections (4) and (5) of KRS 94.309 for the balance, which tax shall be payable as provided in KRS 94.309, 94.313, 94.314 and 94.315.

Section 5. Whereas, in a number of cities a serious health problem exists because of the practical inability of the cities to finance sewer line improvements under the existing statutes, an emergency is declared to exist and this Act shall take effect upon its passage and approval by the Governor.

**SB 209:** AN ACT changing the classification of the City of West Point, in Hardin County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of West Point, in Hardin County, is such as to justify its being classified as a city of the fifth class.

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

The City of West Point, in Hardin County, is transferred from the sixth to the fifth class of cities.

**SB 149:** AN ACT changing the classification of the City of Glasgow, in Barren County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Glasgow, in Barren County, is such as to justify its being assigned to the third class of cities.

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That the City of Glasgow, in Barren County, is hereby transferred from the fifth to the third class of cities.

**HB 15:** AN ACT changing the classification of the city of Hardinsburg, in Breckinridge County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the city of Hardinsburg, in Breckinridge County, is such as to justify its being classified as a city of the fifth class.

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

The City of Hardinsburg, in Breckinridge County, is transferred from the sixth to the fifth class of cities.

**HB 111:** AN ACT changing the classification of the City of Lynnview in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Lynnview, in Jefferson County, is such as to justify its being assigned to the fifth class of cities.

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That the City of Lynnview, in Jefferson County, is hereby transferred from the sixth to the fifth class of cities.

**HB 42:** AN ACT changing the classification of the city of Mount Olivet, in Robertson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the city of Mount Olivet, in Robertson County, is such as to justify its being assigned to the fifth class of cities;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That the City of Mount Olivet, in Robertson County, is hereby transferred from the sixth to the fifth class of cities.

Committee on Claims reported **HR 11, SR 37** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HR 11:** A JOINT RESOLUTION directing payment of a claim against the Commonwealth in favor of the Wesley Chapel of the Methodist Church at Fearisville in Lewis County, Kentucky.

WHEREAS, as the result of the construction of a bridge by the Department of Highways across Frye Branch near the Wesley Chapel of the Methodist Church at Fearisville in Lewis County, Kentucky, the natural flow of water has been impeded and diverted as to cause the waters of the branch to flood the church building, doing substantial damage and requiring repairs in the amount of $1200; and

WHEREAS, the Department of Highways has recognized the merit of the claim of the church for damages based upon negligence and improper construction of the bridge and fills, and it appears that the claim of the church is just and proper and should be paid;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

That the Commissioner of Highways is authorized and directed to prepare and submit to the Commissioner of Finance an appropriate authorization for payment of the sum of $1200 to the Wesley Chapel of the Methodist Church at Fearisville in Lewis County, and the Commissioner of Finance upon receipt of such authorization is directed to issue a warrant for payment of same, out of the State Road Fund.

**SR 37:** A JOINT RESOLUTION authorizing civil action against the Commonwealth of Kentucky, Department of Revenue, in the interest of William E. Scent.

WHEREAS, it appears by affidavits that William E. Scent was employed by the Department of Revenue pursuant to authority granted by KRS 134.380 for the purpose of representing the Commonwealth before the Court of Appeals in litigation styled Allphin v. L. & N. Railroad Co., 290 S.W. (2d) 787, and Allphin v. Joseph E. Seagram and Sons, 294 S.W. (2d) 515, and during the year 1956 did render valuable legal services to the Commonwealth pursuant to said employment;

WHEREAS, said William E. Scent did expend approximately $100.00 of his own funds as the direct result of said employment and representation on behalf of the Commonwealth;

WHEREAS, said William E. Scent has not received any compensation for said service and has not been reimbursed for said expenses because his said employment was not approved in writing by the Governor; and,

WHEREAS, the just and reasonable value of the legal services he so rendered can best be ascertained and determined by judgment of a court of this Commonwealth;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. William E. Scent is authorized to sue the Commonwealth of Kentucky, Department of Revenue, in the Franklin Circuit Court to recover the just and reasonable value of the legal services rendered during 1956 to the Commonwealth of Kentucky, Department of Revenue, in the litigation styled Allphin v. L. & N. Railroad Co., 290 S.W. (2d) 787, and Allphin v. Joseph E. Seagram and Sons, 294 S.W. (2d) 515, and to recover the amount of his expenses actually incurred in connection with the rendition of said legal services; that said action shall be commenced within one year from the effective date of this Resolution, and that no plea of limitation shall be interposed if commenced within that time;

Section 2. That said action shall be for a total sum not in excess of $6,100.00;

Section 3. That the Attorney General of the Commonwealth of Kentucky may investigate the claim and settle it before or after suit is filed if he deems it advisable;

Section 4. That any amount recovered in this action, either by settlement or judgment, shall be paid by check drawn against the Commonwealth of Kentucky, General Fund, Department of Revenue, Operating Fund, in the State Treasury upon warrant drawn by the Commissioner of Finance upon the State Treasurer;

Section 5. That final judgment in the action may be appealed by either party to the Court of Appeals in the manner provided in the Rules of Civil Procedure; and

Section 6. That no statement in this Resolution shall be considered as evidence by the Court entertaining the action.

## Calendar

**SB 103, SB 47, SB 189, SB 181, SB 191, SB 166, SB 192, SB 169, SR 36, SB 88, SR 40, SB 193, SB 163, SB 116** were taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that they be read by title only. Agreed by a majority of the members elected. Ordered placed in Orders of the Day.

## Motions

Senator Duffy moved to suspend the Rules for the purpose of making a motion. Agreed.

Senator Duffy moved that the carbon copy of the Committee Report on **SB 9** be reported for a first reading in the absence of the Chairman of the Committee on Revenue and Taxation and since the original committee report was unavailable.

The President ruled the motion out of order for the reason that the original committee report signed by the Chairman must be filed when the committee reports on a bill.

## Orders of the Day

**SB 84** taken from the Orders of the Day and having been previously recommitted with three amendments adopted and attached thereto was ordered read for the the third time. Senator Anggelis moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Anggelis moved that the vote by which Amendment No. 1 was adopted by the Senate on February 10, 1958, be reconsidered. Agreed by voice vote.

Senator Lucas moved adjournment until 8:00 p.m., Monday, February 24, 1958. The motion was lost by voice vote.

Senator Anggelis moved the Previous Question on **SB 84** (as amended by Amendments Nos. 2 and 3 on February 10, 1958). Agreed by voice vote.

On roll call, the vote was yeas 19—Anggelis, Bassett, Blue, Bonn, C. H. Davis, Duffy, Duncan, Francis, Greene, Hamilton, Hickerson, Howard, Howell, Johnson, Kelly, Knuckles, McCann, Reuscher, Richmond; Nays 4—Lucas, Miller, Ware, Willis.

**SB 84** was passed and the title agreed to.

Senator Anggelis moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed by voice vote.

## House Message

Announcing passage of **HB 143, HB 83, SR 48, SB 107, SB 108.** Ordered that said bills be referred.

## Reference of Bills

The President announced referral of the following bills:

Revenue and Taxation: **SB 234.**

Executive and Legislative Affairs: **SB 235.**

Senator Bassett moved adjournment until 8:00 p.m., Monday, February 24, 1958. Agreed.

## MONDAY, FEBRUARY 24, 1958

## THIRTY-EIGHTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Edward L. Tullis of the First Methodist Church of Frankfort.

The roll was called. All members present except Senator Freeman, who was granted leave of absence on motion of Senator Bassett.

The reading of the Journal for Friday, February 21, 1958, dispensed with and the same approved on motion of Senator McCann.

### Introductions

**SB 243,** by Senator Overbey: AN ACT relating to the Court of Appeals.

**SB 244,** by Senator Bassett: AN ACT relating to the acquisition, construction, maintenance, extension, and improvement of public projects; defining the scope of public projects.

**SB 245,** by Senator Duffy: AN ACT relating to roads.

**SB 246,** by Senators C. H. Davis, Lucas, and Kelly: AN ACT relating to workmen's compensation.

**SB 247,** by Senator Overbey: AN ACT relating to motor transportation, providing a change in bus mileage taxes.

**SB 248,** by Senator Knuckles: AN ACT relating to education.

### Report of Committees

Committee on Revenue and Taxation reported **SB 9** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 9:** AN ACT relating to the levy of license taxes in cities of the first class; the disposition of same among the sinking fund, general fund and special capital fund account of such cities; restriction on ad valorem tax for sinking fund purposes, and the issuance and enforcement of licenses.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 91.200 of the Kentucky Revised Statutes is hereby amended to read as follows:

(1) The board of aldermen of every city of the first class, in addition to levying ad valorem taxes, may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation or profession, and the using, holding or exhibiting of any animal, article, or other thing. License fees on such business, trade, occupation

or profession for revenue purposes shall be imposed at a rate not to exceed one and one-fourth percent (1¼%) of (a) salaries, wages, commissions and other compensation earned by every person within the city for work done and services performed or rendered in the city, and (b) the net profits of all businesses, professions or occupations from activities conducted in the city. Licenses imposed for regulatory purposes shall not be subject to such limitations as to form and amount. No company that pays an ad valorem tax and a franchise tax shall be required to pay a license tax, and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company, or combined trust, banking and title business in this state, or in any other case where the city is prohibited by statute from imposing a license tax.

(2) License fees or taxes shall be collected by the commissioners of the sinking fund. The proceeds from such taxes shall be paid to the secretary and treasurer of the sinking fund until income from all sources of the sinking fund shall be sufficient to pay the costs of administration and the interest charges for the current fiscal year of the sinking fund, in addition to a sum sufficient to amortize the outstanding principal indebtedness of the city on a yearly basis in accordance with regularly used amortization tables.

(3) Revenues remaining after meeting the foregoing requirements shall be transferred to the city. Such revenues shall be credited to the general fund of the city as received until such receipts during the fiscal year of the city shall reach the sum of five million dollars. Any revenues in excess of said amount received during the fiscal year of the city shall be placed in an account designated "Special Capital Fund Account" and expended for capital improvements as hereinafter defined; provided, however, fifty percent of the revenues so deposited to such Special Capital Fund Acount during each fiscal year (commencing with the fiscal year in which this section shall become effective), or any lesser amount remaining in said fund at the end of such fiscal year, may be transferred to the general fund of the city at the beginning of the succeeding fiscal year; provided further, that whenever the unencumbered balance remaining in said Special Capital Fund Account exceeds one million dollars at the beginning of any fiscal year such excess may be transferred to the general fund of the city; provided, further, that funds from the Special Capital Fund Account may be encumbered for purposes other than capital improvements only after transfer to the general fund.

(4) The term "capital improvements" as used in this section shall be limited to additions or improvements of a substantial and permanent nature and services rendered in connection therewith, and shall include but not be limited to (a) the purchase of right-of-ways for highways, expressways and the widening of existing streets, (b) the purchase of lands for park, recreational and other governmental facilities and for public off-street parking facilities, (c) the purchase,

construction, reconstruction, renovation or remodeling of municipal buildings and facilities, (d) the replacement of machinery, wires, pipes, structural members of fixtures and other essential portions of municipal buildings, (e) the initial equipment of any newly-acquired facility wherein any essential governmental function of the municipality may be located or carried on, (f) the purchase and installation of traffic control devices and fire alarm equipment, (g) the reconstruction and resurfacing, but not routine maintenance, of streets and other public ways, (h) the acquisition of motorized equipment purchased as additions to, but not replacements for, existing equipment, and, (i) engineering and other costs incurred by the city in connection with the construction of public improvements financed under a special assessment plan or plans authorized in Chapter 93 of the Kentucky Revised Statutes.

(5) Ad valorem taxes for the benefit of the sinking fund shall not be levied unless the income of the sinking fund is otherwise insufficient to meet such requirements.

(6) Licenses shall be issued and enforced on such terms and conditions as may be prescribed by ordinance.

(7) If any section, paragraph, clause or provision of this statute shall be held invalid, the invalidity of such section, paragraph, clause, or provision shall not affect any of the remaining provisions.

### Calendar

**SB 207, SB 195, SB 65, SB 223, SB 220, HB 25, HB 157, SB 205, HB 90, SB 162, SB 54, SB 153, SB 120, SB 80, SB 209, SB 149, HB 15, HB 111, HB 42, HR 11, SR 37** were taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that they be read by title only. Agreed by a majority of the members elected. Ordered placed in Orders of the Day.

### Report on Enrolled Bills

Committee on Enrollment reported that **SB 108, SB 107** had been examined and found correctly enrolled. Said bills read at length, compared, and signed in open session by the President. Ordered that the original and enrolled copies be delivered to the House.

**SB 108, SB 107** delivered, signed by the Speaker of the House. Ordered delivered to the Governor.

### Recess

Senator Bassett, seconded by Senator Lucas, moved that the Senate do now recess for thirty minutes for the purpose of seeing a film presented by the General Electric Corporation of Louisville, Kentucky, and a program of music rendered by Miss Jane Marvin Brock, Miss Kentucky of 1957, of Liberty, Kentucky. Agreed by voice vote.

At the appointed hour, the President of the Senate called the Senate to order.

## Motions

Senator Kelly moved to suspend the Rules for the purpose of appointing Honorary Pages in the Senate. Agreed.

Senator Kelly moved that Sue Bryant, Byron Timothy Stanford be made Honorary Pages of the Senate. Agreed.

Senator Knuckles moved that Robert Lee Hufstedler, Anna Rae Reams, Rita Kay Knuckles be made Honorary Pages of the Senate. Agreed.

Senator Blue moved that Richard Wynn Bell, Joel Thomas Blackwell, Pamela Gayle Steff, Steve O. Steff, David Ligon Westerfield, William Leslie Ginger, John Hooe Whitfield, Joe Gregory Dunn, Elizabeth Taylor Ridley, James Dorsey Ridley, Jane Baker Humphrey, Ann Ora Villines, Allen Hughes Villines be made Honorary Pages of the Senate. Agreed.

Senator Young moved that John Tyler Stevens be made an Honorary Page of the Senate. Agreed.

Senator Van Hoose moved that Nebby Bixler be made an Honorary Page of the Senate. Agreed.

Senator Anggelis moved that Mark Allen Travis, Dorothy Carole Jenkins, Susan Kathryn Brock, Mary Lillian Carr, Richard Lee Carr be made Honorary Pages of the Senate. Agreed.

Senator Howard moved that Michael Kent Hagan, Carol Jean Hagan, Stephen Perry Hagan, Luanne Hagan, Warren Douglas Hagan, Margaret Erwin Wallace, John Gibbs, Anne Gibbs be made Honorary Pages of the Senate. Agreed.

Senator Kelly moved that Ronald Paul, Robert F. Kimbel, Jerry Dale Kring, Sally Sinclair Long, Elizabeth Gilbert, Stephen Thomas Giles, William Russell Lockridge, Frank Bishop, Jr., Marilyn Reynolds, Jerrye Lee Abshear be made Honorary Pages of the Senate. Agreed.

Senator Reuscher moved that Richard John Reno be made an Honorary Page of the Senate. Agreed.

Senator Melton moved that Barbara Lee Thomas, Mary Vi Thomas, William S. Thomas, J. J. Thomas, and Nancy Elizabeth Effinger be made Honorary Pages of the Senate. Agreed.

Senator Jackson moved that Missie Pruitt be made an Honorary Page of the Senate. Agreed.

## Motions

Senator Ware moved suspension of the Rules for the purpose of making a motion. Agreed.

Senator Ware moved that **SB 178** be recommitted. Agreed by voice vote.

### Introductions

Senator Richmond moved to suspend the Rules for the purpose of introducing bills. Agreed.

**SB 249,** by Senator Knuckles: AN ACT relating to teachers' salaries.

**SB 250,** by Senator Richmond: AN ACT relating to compensation of local officers and employes.

**SB 251,** by Senator Richmond: AN ACT relating to master commissioners.

### Reference of Bills

The President announced referral of the following bills and resolutions:

Agriculture and State Fair: **SB 236, HB 143.**

Executive and Legislative Affairs: **SB 237, SB 238, SB 241, SR 55.**

Conservation: **SB 239.**

Banking and Insurance: **SB 240.**

Health and Welfare: **SB 242.**

Senator Bassett moved adjournment until 1:00 p.m., Tuesday, February 25, 1958. Agreed.

## TUESDAY, FEBRUARY 25, 1958

## THIRTY-NINTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Edward L. Tullis of the First Methodist Church of Frankfort.

The roll was called. All members present.

The reading of the Journal for Monday, February 24, 1958, dispensed with and the same approved on motion of Senator McCann.

### Motions

Senator Duffy moved that Dennis Edwin Hamrich and Kathy Hamrich be made Honorary Pages of the Senate. Agreed.

Senator Francis moved that Senator Fields be made a co-sponsor of **SB 120.** Agreed.

### Introductions

**SB 252,** by Senator Anggelis: AN ACT relating to boilers and pressure vessels.

**SB 253,** by Senator Van Hoose: AN ACT relating to the conduct of certain activities on Sundays.

**SB 254,** by Senators Willis and Freeman: AN ACT making a supplemental appropriation to the Department of Law, and providing for the expenditure thereof.

**SB 255,** by Senators Bassett and Clay: AN ACT relating to gifts of securities and money to minors and making uniform the law with reference thereto.

**SB 256,** by Senator Knuckles: AN ACT relating to the election of school board members.

**SB 257,** by Senator Francis: AN ACT relating to the uniform narcotic drug act.

**SB 258,** by Senator Kelly: AN ACT relating to forest fire protection.

**SR 56,** by Senator Bassett: A RESOLUTION providing for a study of metropolitan governments in the Commonwealth of Kentucky.

### Report of Committees

Committee on Appropriations reported **HB 93** and **HB 140** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 93:** AN ACT relating to education and amending KRS 157.380.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 157.380 of the Kentucky Revised Statutes is amended to read as follows:

(1) On or before July 1 of each year the Department of Revenue shall determine the aggregate assessed value of all property subject to assessment for school tax purposes, and shall determine the percentage the equalized value of property in each district is of the total equalized value of all property in the Commonwealth subject to taxation for school purposes and shall certify such information to the Superintendent of Public Instruction for use in determining the required local tax effort for each district. If such assessment has not become final by July 1 of any year, the Department of Revenue shall, on the basis of other information as may be available, make an estimate of the assessment of all property subject to local school tax in each school district and the estimate shall be used in lieu of the aggregate assessed value.

(2) In determining the required local tax effort for districts which participate in the public school foundation program fund, including the capital outlay allotment, the Superintendent of Public Instruction shall divide the aggregate assessed value of all property in the Commonwealth subject to taxation for school purposes by one hundred and multiply the quotient thereof by one dollar and ten cents. The product thereby obtained shall be multiplied by each district's percentage of the total equalized value of all property in the Commonwealth subject to taxation for school purposes. In determining the required local tax effort for districts which do not participate in the capital outlay allotment of the public school foundation program fund, the multiplier shall be one dollar.

(3) Any district's levy shall be at such rate as is necessary to provide the required local tax effort.

(4) A portion of funds received by any district from the federal government in lieu of taxation of property shall be added to the district's required local tax effort. The portion of such federal funds added to the district's required local tax effort shall be the percentage the required local tax effort is of the total levy for school current expense purposes made in the district during that year; provided, however, that any part of federal funds received by the district that is charged against the district in determining its allotment under public law 874 or similar laws shall not be added to the districts required local tax effort, and, provided further, that this subsection shall not be applicable during the biennium 1958-1960.

**HB 140:** AN ACT relating to construction of National Guard Armories, and appropriating money therefor.

WHEREAS, the General Assembly in 1956 enacted the National Guard Armory Construction Act, Chapter 71 of the 1956 Acts of the General Assembly, pursuant to which appropriation was made to the Governor's Special Emergency Fund of whatever surplus remained in the General Expenditure Fund at the end of the 1956-1957 fiscal year, not to exceed the sum of Five Hundred Seventy-one Thousand ($571,000.00) Dollars, for the construction of National Guard Armories; and

WHEREAS, at the close of the 1956-1957 fiscal year there was a sufficient surplus in the General Expenditure Fund, so that by the operation of the Act referred to the entire sum of Five Hundred Seventy-one Thousand ($571,000.00) Dollars became available to the Governor's Special Emergency Fund; and

WHEREAS, pursuant to the provisions of Chapter 71 of the 1956 Acts of the General Assembly, this appropriation was made available for the purposes of the Act until expended, or until the close of the fiscal year 1957-1958, whichever should occur first; and

WHEREAS, matching funds to be provided by the Federal Government have not been made available in time to award contracts or to complete the work of construction prior to the close of the fiscal year 1957-1958 on June 30, 1958; and

WHEREAS, considerable time and effort have been expended in procuring sites and in planning for the construction of National Guard Armories; and

WHEREAS, the urgent need for the construction of these National Guard Armories still exists;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 36.082 of the Kentucky Revised Statutes is amended to read as follows:

(1) This section may be cited as the National Guard Armory Construction Act.

(2) In enacting this section, it is the intention of the General Assembly to provide funds for the construction of National Guard Armories at the following locations: Olive Hill, Jackson, Barbourville, Louisville, Shively, Bardstown, Carrollton, Brandenburg, Hopkinsville, Tompkinsville, Marion, Monticello, Middlesboro, and Glasgow.

(3) As used in this section, unless the context requires otherwise:

(a) "Armory" means a structure in which to house, administer, train, and equip a unit or units of the Kentucky National Guard and all appurtenances necessary thereto.

(b) "Federal funds" means funds provided by the Congress of the United States through the enactment of public law for the construction of National Guard Armories in the several states.

(4) To carry out the purposes of this section, the funds in the amount of Five Hundred Seventy-one Thousand ($571,000.00) Dollars appropriated to the Governor's Special Emergency Fund by Chapter 71 of the 1956 Acts of the General Assembly for the construction of National Guard Armories, or any amount thereof remaining unencumbered and unexpended on June 30, 1958, shall be carried forward and

is hereby appropriated to the Capital Construction Fund and made available for expenditure during the fiscal years beginning on July 1, 1958, and expiring on June 30, 1960.

Committee on Judiciary reported **SB 225** and **SB 233** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 225:** AN ACT prohibiting solicitation of legal business with expectation of pecuniary reward therefor, and providing penalty for same.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. No person shall procure or solicit any legal business for any attorney at law, under expectation or promise, whether express or implied, of being paid in any manner.

Section 2. Any person who violates any provision of Section 1 hereof shall be fined not more than One Thousand Dollars or imprisoned not more than six months, or both.

**SB 233:** AN ACT pertaining to county courts and juvenile sessions thereof.

WHEREAS, certain words and terms appearing in Chapter 208 of the Kentucky Revised Statutes need defining; and

WHEREAS, the jurisdiction of county courts and the juvenile division thereof need clarification; and

WHEREAS, certain omissions and insertions in the existing law relative to the powers of county courts in juvenile session and of other courts over children, penalties and contribution of parents to support children need to be made in Sections 208.010, 208.020, 208.110, 208.170, 208.200, 208.230, 208.280, 208.320, 208.400, and 208.990 of the Kentucky Revised Statutes:

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 208.010 of the Kentucky Revised Statutes is amended to read as follows:

As used in KRS 208.010 to 208.590 and 208.990, unless the context otherwise requires:

(1) "Department" means the Department of Welfare.

(2) "Child" means any person who has not reached his eighteenth birthday.

(3) "Court" means the juvenile session of the county court.

(4) "Child Welfare Worker" shall mean any employee of the Department of Economic Security designated as such by the Commissioner of the Department of Economic Security or social worker employed by a county or city who has been approved by the Department of Economic Security to handle, under its supervision, services to children.

(5) "Dependent child" has the same meaning as in KRS 199.011.

(6) "Abandoned child" has the same meaning as in KRS 199.011.

(7) "Needy child" as used in this chapter means one in want and deprived of the necessities for living; the education required by law; or the supervisory medical, psychiatric, psychological, or other care necessary for his well being.

Section 2. Section 208.020 of the Kentucky Revised Statutes is amended to read as follows:

(1) The court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who:

(a) Has committed a public offense;

(b) Who is unmanageable or ungovernable and beyond the control of his parents or other guardian; or

(c) Whose acts of commission or omission, behavior, occupation, environment or associations are such as to injure its welfare or that of others and to require, for its good and possible reformation, that it be taken into custody and surrounded by proper moral training and influences to make it, if possible, a good and reputable citizen.

(2) Needy, dependent or neglected children and any child who has been found to fall within the purview of subsection (1) (b) or (1) (c) of this section shall be dealt with by the county court or the juvenile court as provided by KRS 200.110.

(3) The juvenile sessions of the county courts of each county shall have jurisdiction concurrent with quarterly, police and magistrate's courts of:

(a) Any person knowingly encouraging, aiding, causing, or in any manner contributing to the conditions which cause or tend to cause a child to become delinquent, neglected, dependent or charged with a crime.

(b) Any person having custody of a child willfully failing to do any act that will directly tend to prevent such child becoming delinquent, neglected, dependent or charged with a crime.

(4) Nothing in KRS 208.010 to 208.590 shall deprive other courts of the right to determine the custody of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in KRS 208.010 to 208.590 affect the jurisdiction of circuit courts over adoptions and over proceedings for termination of parental rights.

Section 3. Section 208.110 of the Kentucky Revised Statutes is amended to read as follows:

(1) The law relating to the persons by whom and the circumstances under which a person may be arrested for a public offense shall be applicable to children, but the taking of child into custody under such law shall not be termed an arrest, and a child after having been taken into custody shall be dealt with as provided in KRS 208.010 to 208.590. The law relating to bail shall not be applicable to children detained in accordance with KRS 208.010 to 208.590.

(2) When a peace officer has taken or received a child into custody on a charge of committing a public offense, the officer shall notify the parent, guardian or custodian of the child as soon as possible. Unless the nature of the offense or other circumstances are such as to indicate the necessity of keeping the child in secure custody, or unless other directions have been given by the court, the officer shall release the child to the custody of his parent or other responsible adult upon the written promise, signed by such person, to bring the child to the court at a stated time or at such time as the court may direct. The written promise, accompanied by a written report by the officer, shall be submitted to the court forthwith. If the person fails to produce the child as agreed or upon notice from the court, a warrant may be issued for the apprehension of the person or of the child, or both.

(3) If the child is not released as provided in subsection (2) of this Section, the child shall be taken without delay to the court or to the detention facility. The officer shall as soon as possible thereafter make a written report to the court, stating the fact of such detention, the offense charged, and the reason why the child was not released to the parent. Pending further disposition of the case, the court may release the child to the custody of the parent or other responsible person or may continue to hold the child in detention, subject to further order, but no child shall be held in detention longer than four days, excluding Sundays and holidays, except pursuant to a written order signed by the judge.

(4) Unless the child has been released to the custody of his parent, guardian or custodian in accordance with subsection (2) or (3) of this Section, the parent, guardian or custodian shall be notified as provided in KRS 208.080 and 208.090, of the time and place set for holding a hearing concerning the child.

Section 4. Section 208.170 of the Kentucky Revised Statutes is amended to read as follows:

(1) If, during the course of any proceeding in the juvenile court, it appears that a child before the court has committed a felony, and at the time of the commission of the offense the child was sixteen years of age or older, or was less than sixteen years of age but the offense was one carrying a maximum penalty of twenty-one years or more, including death, and the court is of the opinion that the best interests of

the child and of the public require that the child be tried and disposed of under the regular law governing crimes, the court in its discretion may make an order transferring the case to the circuit court of the county in which the offense was committed. No child shall be considered a felon for any purpose until transferred to, tried and convicted of a felony by the circuit court.

(2) When the juvenile court so transfers a case to the circuit court:

(a) If a grand jury considers the case and is satisfied there is sufficient evidence to indict the child, it may either return an indictment or may return a written report to the circuit court recommending that the child be committed to the department. If the court believes that such commitment would be proper, it may order the child committed to the department.

(b) If, during any stage of the trial in the circuit court, the child or his parent or guardian so requests, the judge in his discretion may stop the trial and commit the child to the department.

(c) If neither of the procedures specified in paragraphs (a) and (b) of the subsection are employed, the child shall be tried as any other defendant.

(d) While under the jurisdiction of the circuit court, the child shall be subject to bail the same as an adult.

(e) Any commitment to the department under paragraph (a) or (b) or this subsection shall be for an indeterminate period not to exceed the age of twenty-one.

Section 5. Section 208.200 of the Kentucky Revised Statutes is amended to read as follows:

(1) If in its decree the juvenile court finds that the child comes within the purview of KRS 206.020 (1), the court may, by order:

(a) Place the child on probation or under supervision in his own home or a suitable family home or boarding home, upon such conditions as the court shall determine. Probation shall not be ordered or administered as punishment, but as a measure for the protection, guidance and well-being of the child and his family. A child so placed on probation shall be subject to the visitation and supervision of a probation officer or a child welfare worker. Probation methods shall be directed to the discovery and correction of the basic causes of maladjustment and to the development of the child's personality and character, with the aid of the social resources of the community. A child so placed on probation shall remain subject to the jurisdiction of the juvenile court until he becomes twenty-one years of age, unless he is discharged prior thereto by the court.

(b) Commit the child to the custody or guardianship of a private or public institution or agency authorized to care for such children, or under the guardianship of a suitable person. Such commitment shall be until the age of twenty-one subject to the power of the court to discharge the child prior thereto or of the governing authorities of said agency or institution to do so. In committing a child to a private institution or agency the court shall select one that is approved by the Department of Economic Security and children committed to such an institution or agency shall be subject to the visitation and supervision of a probation officer or a child welfare worker.

(c) Commit the child to the department. Such commitment shall be for an indeterminate period not to exceed the age of twenty-one.

(2) If in its decree, the juvenile court finds that the child comes within the purview of KRS 208.020(1), the court may dispose of the child as provided in subsection (1) (a), (1) (b) or (1) (c) of this section, except that if a child comes within the purview of KRS 208.020(1) (b) or KRS 208.020(1) (c), the court may not commit the child to the Department of Economic Security unless the Department of Economic Security has indicated to the court that it has facilities and funds available to care for the child and is willing to accept the commitment.

(3) In the event a child commits a new offense, the juvenile court shall have exclusive, original jurisdiction for the new offense and may modify all previous orders. Nothing in this section shall limit the jurisdiction of any other court in assuming jurisdiction of wards of the state between the ages of eighteen and twenty-one years of age who have committed another public offense after attaining the age of eighteen.

(4) If a child is disposed of as provided in paragraph (a) or (b) of subsection (1) of this section, the court may modify or set aside its order at any time, and direct that the child be otherwise disposed of in accordance with KRS 208.010 to 208.590.

(5) No adjudication by a juvenile court of the status of any child shall be deemed a conviction, nor shall such adjudication operate to impose any of the civil disabilities ordinarily resulting from a criminal conviction, nor shall any child be found guilty or be deemed a criminal by reason of such adjudication.

Section 6. Section 208.230 of the Kentucky Revised Statutes is amended to read as follows:

In support of any order or decree, the juvenile court may require the parents or other person having custody of a child, or any other person who has been found by the court to be causing, encouraging or contributing to the acts or conditions which bring the child within the provisions of KRS 208.020 to do any act required by law or to desist from doing any acts forbidden by law, when the court deems such requirement necessary for the welfare of the child. In cases of failure to comply with such requirement, the court may proceed against such persons as in cases of civil contempt.

Section 7. Section 208.280 of the Kentucky Revised Statutes is amended to read as follows:

If it appears that the parent of any child who has been found to fall within the purview of this chapter and who has been left in his own home or in the home of a relative, placed on probation or placed in a foster home or boarding home or in the care of a public or private institution or agency, or the department, is able to contribute to the support of the child, the court shall enter an order requiring the parent to pay a reasonable sum from time to time for the support, maintenance or education of the child. The order shall direct that the money be paid to the county clerk to be disbursed as ordered by the court or be paid to the person, institution, department or agency to which the child was committed or probated. On such application and on such notice as the court may direct, the court may make alterations in the requirement for contribution. The court may require the parents to give security for payment of the sums due, and shall have the powers of a court of equity in enforcing its orders. The enforcement of a sentence imposed on any parent who fails to comply with such an order of the court may be suspended at the discretion of the court, but the suspension may be revoked at the discretion of the court, upon the failure of the parent to obey further orders of the court.

Section 8. Section 208.320 of the Kentucky Revised Statutes is amended to read as follows:

(1) In counties containing a city of the first or second class, the county judge may appoint a chief probation officer of the juvenile court and such number of assistant probation officers, professional and clerical personnel as may be authorized by the fiscal court. Such officers shall receive reasonable salaries to be fixed by the fiscal court, and shall be allowed their actual and necessary expenses incurred in the performance of their duties. The salaries and expenses shall be paid out of the county treasury. The officers shall serve at the pleasure of the county judge. The officers shall be peace officers with all the powers of the sheriff in making arrests and carrying out the purposes of this Act. A probation officer or any peace officer may take into custody any child that he has reasonable grounds to believe is in violation or conditions of his or her probation, and detain such child for appropriate action by the court.

(2) In any county, the county judge may appoint or designate one or more discreet persons of good moral character to serve as volunteer probation officers of the juvenile court. Such officer shall serve during the pleasure of the judge and without compensation, except that the fiscal court may authorize the payment of compensation out of the county treasury to any such officers. Representatives of the Department of Economic Security or the Department of Welfare may be appointed or designated as such volunteer probation officers, but without compensation from county funds.

(3) If the Department of Economic Security deems it necessary, it may appoint a child welfare worker to cooperate with the court.

Section 9. Section 208.400 of the Kentucky Revised Statutes is amended to read as follows:

The Department shall be responsible for the operation, management and development of the existing state institutional physical facilities for the custodial care, reformation, education, and treatment of delinquent children. The Department shall further be responsible for the development of such additional institutional physical facilities and other necessary physical facilities, such as forestry camps, farms or vocational training facilities as are necessary to provide an adequate and modern program for the care, treatment, and rehabilitation of children committed to the state as delinquents under the juvenile court laws.

Section 10. Section 208.990 of the Kentucky Revised Statutes is amended to read as follows:

(1) Any person who violates KRS 208.120 shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned in the county jail for not more than thirty days, or both.

(2) Any person who transports or causes or permits a female child to be transported in violation of subsection (1) of KRS 208.260 shall be fined not less than one hundred dollars nor more than five hundred dollars.

(3) Any person who violates subsection (2) of KRS 208.260 shall be fined not more than one hundred dollars.

(4) Any person who knowingly encourages, aids, causes or in any manner contributes to the conditions which cause or tend to cause the child to become delinquent, neglected, dependent or charged with a crime, or any person having custody of a child who willingly fails to do any act which will directly tend to prevent such child's becoming delinquent, neglected, dependent or charged with a crime:

(a) Shall be fined not more than five hundred dollars or imprisoned in the county jail or workhouse not more than twelve months, or both;

(b) Instead of the penalty imposed by paragraph (a) of this subsection, the court may suspend the sentence or release the defendant on probation for one year upon his recognizance, with or without sureties. The defendant may be ordered during the effective period of his probation to make his personal appearance in court, and shall provide and care for the child as directed by the court, and shall further comply with the orders of the court. If the court is satisfied on information or proof under oath that the defendant has violated the terms of the order, it may revoke the order and sentence him under the original order of conviction. Unless so sentenced, the defendant shall be discharged at the end of the year, and the conviction shall become void.

Section 11.

WHEREAS, inadequacies exist in the present revised statutes in the matter of jurisdiction of county courts and the juvenile division thereof, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Committee on Labor and Industry reported **SB 145** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 145:** AN ACT relating to workmen's compensation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Upon the demand of any employer who has, or claims to have, made the report to the Workmen's Compensation Board required by KRS 342.330, or of any employe who is or may be affected by the making of, or failure to make, such a report, or by any court, the board shall furnish a certificate showing that a specified report has or has not been made to the board, and, if made, the date thereof. Such certificate shall be admissible in evidence on the issue of compliance or noncompliance with the provisions of KRS 342.330 and KRS 342.990 (1), and on the issue of whether and if so, when, the employer acquired knowledge that the employe referred to in said certificate claimed to have sustained a compensable injury or to have contracted an occupational disease, but shall not be used for any other purpose. Except as just provided, every report required to be made by KRS 342.330 shall be made without prejudice either to the employer making such report or to the employe who is the subject thereof, or his dependents, and all such reports shall be made only for the confidential use of the Workmen's Compensation Board; and no such report shall be used by either party as evidence in any hearing or trial arising out of any accident or injury referred to therein.

Committee on Ways and Means reported **HB 72, SB 137, SB 70, SB 202, SB 203,** and **SB 199** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 72:** AN ACT relating to the Governor's Mansion.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 11.020 of the Kentucky Revised Statutes is amended to read as follows:

"The Governor shall have the use of the Mansion and the furniture therein and premises, free of rent, but the purchase of furniture for the Mansion shall be upon the recommendation of the Commissioner of Finance and in accordance with KRS Chapter 42."

**SB 137:** AN ACT relating to Chambers of Commerce.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 102.020 of the Kentucky Revised Statutes is amended to read as follows:

(1) The articles of incorporation shall be as follows:

"We, the undersigned business and professional men, resident, or conducting a business, or having a branch office, in the city of ----------------------------, county of -----------, Kentucky, adopt the following articles of incorporation:

Article 1. The objects of this corporation shall be to advance and improve civil welfare, and to advertise and develop the industries and resources of ---------------------------, Kentucky.

Article II. The name of this corporation shall be---------------------Chamber of Commerce.

Article III. The affairs of this corporation shall be conducted by a board of not less than six directors, and such officers as may be established by the bylaws of the corporation.

Article IV. The annual dues of the members of this corporation shall be not less than twelve dollars, payable as provided in the bylaws of the corporation.

Article V. Any resident of the city or county, or any firm or individual operating a business or branch office therein, whose application meets with the approval of the board of directors, may become a member by paying the first dues, and thereafter complying with the articles of incorporation and bylaws.

Article VI. This corporation shall continue until terminated by operation of law.

Article VII. The board of directors shall adopt such bylaws as they deem necessary for the regulation of the affairs of this corporation.

(2) The articles of incorporation shall be recorded by the county clerk without fee."

**SB 70:** AN ACT relating to the purchase and delivery of oil and gas from wells.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. A new section of the Kentucky Revised Statutes is enacted to read as follows:

(1) The purchaser of any oil or gas from an owner or lessee of the oil and gas interests in any well, which oil and gas is produced from such well, shall pay, in addition to the purchase price specified in the agreement, three percent (3%) per annum interest on any balance of the purchase price remaining unpaid after the sixtieth day following delivery of such oil and gas to the pipeline or other receiving facility of the purchaser or the purchaser's agent.

(2) The provisions of subsection (1) of this section shall not apply in case the contract or agreement covering the purchase specifies any other lawful rate of interest.

**SB 202:** AN ACT relating to the Kentucky Geological Survey.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 151.010 of the Kentucky Revised Statutes is amended to read as follows:

There is hereby established and shall be maintained within the University of Kentucky a bureau of geological research and information to be known and designated as the Kentucky Geological Survey. The Survey shall be under the direction of a person who shall be designated Director of the Survey and who shall be appointed in the same manner as other staff members of the University. The Survey shall have a non-teaching staff to be appointed in the same manner as other staff members of the University. The Director or a member of the non-teaching staff shall be designated State Geologist and all members of the Survey shall be employes of the University of Kentucky within the provisions of KRS 164.220 to 164.230, inclusive.

Section 2. Section 151.040 of the Kentucky Revised Statutes is amended to read as follows:

The Kentucky Geological Survey shall report periodically on its findings to the Governor and General Assembly and such reports shall be available to the public. It shall at all times furnish cooperative services to the Department of Economic Development and such other state agencies as may request its services, and make available to those agencies such information and data as are at the disposal of the Survey. The Survey may issue reports, maps and other publications for sale at a price prescribed by the governing authorities of the University of Kentucky.

**SB 203:** AN ACT relating to the Kentucky Water Pollution Control Commission.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 220.600 of the Kentucky Revised Statutes is amended to read as follows:

(1) For the purpose of carrying out the provisions of KRS 220.580 to 220.650, there is hereby created in the Department of Health a Water Pollution Control Commission.

(2) The commission shall consist of the Commissioner of Health, the Commissioner of Conservation, the Attorney General, the Commissioner of the Department of Fish and Wildlife Resources, the Director of Strip Mining and Reclamation, the Chief of the Depart-

ment of Mines and Minerals, and three citizens of the Commonwealth, to be appointed for terms of four years each by the Governor. Two of said citizen members shall be selected from groups representative of municipalities. Vacancies shall be filled for the unexpired portion of any term in the same manner as an original appointment. Each of the officers of the Commonwealth hereby made a member of the commission may, by written order filed with the secretary of the commission, designate a deputy or other representative in his department to serve in his stead and to perform his duties as a member of the commission in his absence. Such designation shall be deemed temporary only and shall not affect the merit system or retirement rights of any person so designated.

(3) No salary or other compensation shall be allowed any member of the commission but each member may be reimbursed for actual and necessary expenses incurred in the performance of his official duties.

(4) The commission shall select one of its members as chairman and another member as vice chairman at its first regular meeting in each calendar year. The Commissioner of Health shall be the secretary of the commission, and may employ an executive director and such technical and other personnel as may be required in order to carry out the provisions of KRS 220.580 to 220.650 and the policies of the commission, and may define their powers and duties and fix their compensation. During the interim between meetings, the Commissioner of Health may perform in the name of the commission such functions and duties and may exercise such authority of the commission as the commission may delegate to him, or he may delegate such functions, duties and authority to the executive director.

(5) Technical, scientific, legal or other services required by the commission shall be furnished insofar as practicable, by the Department of Health, the Department of Conservation, the Director of Strip Mining and Reclamation, the Attorney General, the Department of Fish and Wildlife Resources, the Department of Mines and Minerals and other state departments, without additional compensation. The commission may request and receive the assistance of any state or municipal educational institution, experiment station, laboratory or other agency when it is deemed necessary or beneficial by the commission to carry out the provisions of KRS 220.580 to 220.650. The Department of Fish and Wildlife Resources is authorized, out of its receipts, to make contributions to the commission for its program.

(6) The commission shall hold regular meetings at least once in every two months, the time and place of which shall be determined by the commission. Special meetings may be called by the chairman or by three members of the commission by delivery to the office of each member of the commission of a written notice thereof at least five days in advance of the date of any such meeting. Five members of the commission shall constitute a quorum at any meeting. The com-

mission shall establish bylaws for the conduct of its meeting and shall keep an accurate record of all its proceedings.

**SB 199:** AN ACT relating to Water Districts permitting payment by a district to Farmers Home Administration of the U. S. Government for the purpose of insuring of bonds.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Any bond form and bond resolution adopted by a Water District pursuant to the terms of KRS 74, KRS 96 or KRS 106 may definitely fix and determine the amount necessary to be set apart and applied to the payment of insurance charges to Farmers Home Administration of the U. S. Government for the purpose of obtaining from such agency an agreement to insure the repayment of the said bonds. The insurance charge shall be paid out of the same fund as is set apart and applied to the payment of the principal and interest of the bonds, if the resolution so provides.

### Motions

Senator Richmond moved that **SB 138** be made a special order as soon as the Orders of the Day were to be considered. Agreed.

Senator Van Hoose moved that the rules be suspended for the purpose of introducing a resolution. Agreed.

### Introductions

**SR 57,** by Senator Van Hoose: A RESOLUTION extending the condolences of the General Assembly to the family of J. B. Wells, Sr.

WHEREAS, the supreme creator in his omniscience has seen fit to separate J. B. Wells, Sr. from his loved ones by death;

WHEREAS, the said J. B. Wells, Sr. was one of Eastern Kentucky's most loved and respected business and civic leaders;

WHEREAS, the experience and leadership abilities which he demonstrated will be conspicuous by their absence in the areas of his endeavors; and

WHEREAS, the passing of the said J. B. Wells, Sr. has been noted with regret by members of the General Assembly of the Commonwealth of Kentucky;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the condolescence of the General Assembly of the Commonwealth of Kentucky be and are hereby extended to the family of J. B. Wells, Sr. upon his untimely and unfortunate passing.

Section 2. That the clerk of the Senate cause copies of this resolution to be sent to Mrs. Jenny Wells, Mrs. Irvin Arrowood, Mrs.

Deward Kazee, Mrs. Edd Redd and Mr. J. B. Wells, Jr., the widow and children of Mr. J. B. Wells, Sr.

Senator Van Hoose moved the adoption of said resolution. Adopted.

## Calendar

**SB 9** was taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that it be read by title only. Agreed by a majority of the members elected. Ordered placed in the Orders of the Day.

## Orders of the Day

**SB 138** taken from the Orders of the Day, having previously been recommitted with amendments adopted, attached thereto (adopted February 18, 1958) ordered read at length for the third time. Senator Richmond moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Richmond proposed Committee Amendment No. 7 to **SB 138:**

Amend printed copy of SB 138 on page 8, section 10, line 17 by inserting the words "and stores" after the words Producer-handlers and before the word who.

Senator Richmond moved the adoption of said Amendment. Adopted by voice vote.

Senator Richmond proposed Committee Amendment No. 8 to **SB 138:**

Amend printed copy of **SB 138** on page 12, section 14, line 37 by inserting the words "and stores" after the words Producer-handlers and before the word in.

Senator Richmond moved the adoption of said Amendment. Adopted by voice vote.

Senator Richmond moved the Previous Question on **SB 138.** Agreed.

On roll call, the vote was yeas 30—Anggelis, Bassett, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Jackson, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Ware, Warinner, Willis; Nays 4—Howard, Howell, Van Hoose, Young.

**SB 138** was passed and the title agreed to.

Senator Richmond moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

Senator Warinner moved that the rules be suspended for the purpose of introducing bills. Agreed.

## Introductions

**SB 259,** by Senator Warinner: AN ACT relating to seditious literature in institutions of learning.

**SB 260,** by Senator Warinner: AN ACT relating to record books and supplies for clerks and courts.

### Motions

Senator Bassett moved that **HB 25** be substituted for **SB 143** in its place in the Orders of the Day. Agreed.

### Orders of the Day

**HB 25** taken from the Orders of the Day and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Bassett moved the Previous Question on **HB 25.** Agreed.

On roll call, the vote was: Yeas, 37—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jack, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 1—Duffy.

**HB 25** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 154** taken from the Orders of the Day and ordered read at length for the third time. Senator Miller moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Ware proposed an amendment to **SB 154:**

Amend printed copy of **SB 154** on page 1, section 1, line 9 by deleting the word "two" and substituting therefor the word "four"

Senator Ware moved the adoption of the amendment to **SB 154.** Adopted.

Senator Miller Moved the Previous Question on **SB 154** as amended. Agreed.

On roll call, the vote was: Yeas, 35—Anggelis, Bassett, Blake, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Jackson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 154** was passed and the title agreed to.

Senator Miller moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

Senator Bassett moved that **HR 68** be laid on the Clerk's Desk. Agreed.

**SB 144** taken from the Orders of the Day and ordered read at length for the third time. Senator Robinson moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Robinson moved the Previous Question on **SB 144.** Agreed.

On roll call, the vote was: Yeas, 33—Anggelis, Bassett, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Ware, Willis, Young; Nays, 0.

**SB 144** was passed and the title agreed to.

### House Message

Announcing passage of **HB 26, HB 202, HB 223.** Ordered that said bills be referred.

### Orders of the Day

**SB 158** taken from the Orders of the Day and ordered read at length for the third time. Senator Cornett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Cornett proposed an amendment to **SB 158.**

Amend printed copy of **SB 158** on page 2, line 15 by striking the word "eighteen" and substituting in lieu thereof the following: "twelve"

Senator Cornett moved the adoption of said amendment. Adopted by voice vote.

Senator Cornett moved the Previous Question on **SB 158.** Agreed.

On roll call the vote was: Yeas, 38—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 158** was passed and the title agreed to.

**HB 16** taken from the Orders of the Day and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

On roll call, the vote was: Yeas, 33—Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**HB 16** was passed and the title agreed to.

**SB 51** taken from the Orders of the Day and ordered read at length for the third time. Senator Knuckles moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Knuckles moved the Previous Question on **SB 51.** Agreed.

On roll call, the vote was: Yeas, 20—Blue, Bonn, Byers, Cornett, C. H. Davis, Duncan, Freeman, Greene, Howard, Howell, Jackson, Kelly, Knuckles, Lucas, McCann, Reuscher, Richmond, Van Hoose, Warinner, Young; Nays, 9—Bassett, Clay, Duffy, Francis, Kidwell, Melton, Overbey, Ware, Willis.

**SB 51** was passed and the title agreed to.

Senator Knuckles moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 122** taken from the Orders of the Day and ordered read at length for the third time. Senator Anggelis moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Anggelis moved the Previous Question on **SB 122**. Agreed.

On roll call, the vote was: Yeas, 38—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 122** was passed and the title agreed to.

Senator Anggelis moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 99** taken from the Orders of the Day and ordered read at length for the third time. Senator Johnson moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Johnson moved the Previous Question on **SB 99**. Agreed.

On roll call, the vote was: Yeas, 36—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 99** was passed and the title agreed to.

Senator Anggelis moved that **SB 104** retain its place in the Orders of the Day. Agreed.

**SB 101** taken from the Orders of the Day and ordered read at length for the third time. Senator Johnson moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Johnson moved the Previous Question on **SB 101**. Agreed.

On roll call, the vote was: Yeas, 34—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis, Young; Nays, 0.

**SB 101** was passed and the title agreed to.

Senator McCann moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

Senator Miller moved that the rules be suspended for the purpose of introduction of bills. Agreed.

### Introductions

**SB 261,** by Senators Miller and Ware: AN ACT establishing the Continuing Committee on Governmental Affairs and providing for its operation.

The President Pro Tem of the Senate, Senator Clay, assumed the chair.

### Orders of the Day

**SB 176** taken from the Orders of the Day and ordered read at length for the third time. Senator Johnson moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Johnson moved the Previous Question on **SB 176.** Agreed.

On roll call, the vote was: Yeas, 30—Anggelis, Bassett, Blake, Blue, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Lucas, McCann, Melton, Miller, Reuscher, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 176** was passed and the title agreed to.

Senator Johnson moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 97** taken from the Orders of the Day and ordered read at length for the third time. Senator Johnson moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Johnson proposed an amendment to **SB 97.**

Amend printed copy of **SB 97** on page 2, section 2, line 17 by deleting the word "three" and inserting in lieu thereof the word "four".

Senator Johnson moved the adoption of said amendment. Adopted by voice vote.

Senator Johnson moved the Previous Question on **SB 97** as amended. Agreed.

On roll call, the vote was: Yeas, 33—Anggelis, Bassett, Blake, Bonn, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 97** was passed and the title agreed to.

Senator Johnson moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 167** taken from the Orders of the Day and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Bassett moved the Previous Question on **SB 167.** Agreed.

On roll call, the vote was: Yeas, 33—Anggelis, Bassett, Blake, Blue, Bonn, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis; Nays, 0.

**SB 167** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 168** taken from the Orders of the Day and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator McCann moved the Previous Question on **SB 168.** Agreed.

On roll call, the vote was: Yeas, 35—Anggelis, Bassett, Blake, Blue, Bonn, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 168** was passed and the title agreed to.

The President of the Senate, Lieutenant Governor Waterfield, resumed the chair and presided.

Senator Freeman moved that **SB 174** be retained in the Orders of the Day. Agreed.

Senator Overbey moved that **HR 13** be laid on the table. Agreed by voice vote.

**HB 21** taken from the Orders of the Day and ordered read at length for the third time. Senator Richmond moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Richmond moved the Previous Question on **HB 21.** Agreed by voice vote.

On roll call, the vote was: Yeas, 34—Anggelis, Bassett, Blue, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**HB 21** was passed and the title agreed to.

**SB 45** taken from the Orders of the Day and ordered read at length for the third time. Senator Clay moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

A Committee Amendment to **SB 45** was proposed by Senator Clay.

Amend printed copy of **SB 45** on page 2, section 3, lines 4 through 8 by striking out lines 4, 5, 6, 7 and 8 and substituting in lieu thereof the following: "all counties. The commission, however, shall not purchase any voting machines for the use of any county until the county has contracted with said commission for the rental and purchase of said machines as provided herein. The fiscal court of the county so contracting may designate the type, make and kind of machine and such designation shall be binding on the commission in the purchase of voting machines for such county.

(2) Issue one or more series of voting machine revenue bonds of the Common-"

Senator Clay moved the adoption of the Committee Amendment. Agreed.

Senator Clay moved the Previous Question on **SB 45** as amended. Agreed.

On roll call, the vote was: Yeas, 32—Anggelis, Bassett, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Freeman, Hamilton, Hickerson, Howell, Jackson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis; Nays, 0.

**SB 45** was passed and the title agreed to.

**SB 103** taken from the Orders of the Day and ordered read at length for the third time. Senator Fields moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Fields moved the Previous Question on **SB 103.** Agreed by voice vote.

On roll call, the vote was: Yeas, 33—Anggelis, Bassett, Blue, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis; Nays, 0.

**SB 103** was passed and the title agreed to.

Senator Bassett moved adjournment until 1:00 p.m., Wednesday, February 26, 1958. Agreed.

## WEDNESDAY, FEBRUARY 26, 1958

## FORTIETH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Edward L. Tullis of the First Methodist Church of Frankfort.

The roll was called. All members present.

The reading of the Journal for Tuesday, February 25, 1958, dispensed with and the same approved on motion of Senator Bassett.

### Motions

Senator Bassett moved that **SB 9** be made a special order as soon as the Orders of the Day were to be considered. Agreed.

Senator Duffy moved that Katherine Ware and Mary Minton Ware be made Honorary Pages of the Senate. Agreed.

### Introductions

**SR 58,** by Senator Warinner: A RESOLUTION memorializing Congress to lower optional and mandatory retirement age and age at which old age assistance commences.

**SB 262,** by Senator Warinner: AN ACT relating to teachers' salaries.

**SB 263,** by Senator Warinner: AN ACT relating to free textbooks.

**SB 264,** by Senator Warinner: AN ACT relating to compensation for city council members.

**SB 265,** by Senators Warinner, Robinson, Johnson: AN ACT relating to special reporters for circuit courts.

**SB 266,** by Senators Warinner, Robinson, Johnson: AN ACT relating to grand juries.

**SB 267,** by Senator Howard: AN ACT relating to police officers.

**SB 268,** by Senator Hamilton: AN ACT relating to additional income tax credits for incapacitated persons.

**SB 269,** by Senator Greene: AN ACT relating to local option elections.

**SB 270,** by Senators Francis, Bassett, Clay, Overbey, Knuckles, Warinner, Fields, Hickerson, Ware, Jackson, Freeman, Richmond, Duncan, Lucas, Robinson: AN ACT relating to County employes retirement.

### Committee Reports

Committee on Agriculture and State Fair reported **SB 204, SB 236** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 204:** AN ACT relating to tobacco warehouses.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 248.290 of the Kentucky Revised Statutes is amended to read as follows:

(1) No person shall operate a tobacco warehouse without first having obtained an annual license from the Department of Agriculture, Labor and Statistics.

(2) The annual license fee shall be in an amount equal to one-third of one cent for each one hundred pounds of tobacco sold, based on the volume of the previous year's business, but in no case less than thirty-five dollars nor more than one hundred dollars for each warehouse. Where a warehouse is operating for the first season, the fee will be thirty-five dollars. A license fee shall be paid on each warehouse building operated as a place of sale for tobacco, regardless of the number of such buildings owned by any individual, corporation, firm or other type of management organization. It shall be paid on July 1 of each year.

(3) The license fees collected by the Department shall be paid into the State Treasury to the credit of a revolving fund to be used in the administration of this Chapter.

Section 2. (1) The Department may suspend or revoke the license of any warehouseman convicted by a court of competent jurisdiction for wilfully mis-weighing any tobacco, and may refuse to grant a license to any warehouseman so convicted.

(2) Any warehouseman whose license has been suspended or revoked, or whose application for a license has been refused, as herein provided, may appeal to the Board of Agriculture, which Board, after hearing, may affirm, reverse or modify the order appealed from. The order of the Board may be appealed to the Franklin Circuit Court as provided in Section 11 of this Act.

Section 3. Section 248.300 of the Kentucky Revised Statutes is amended to read as follows:

(1) The Department shall administer KRS 248.290 to 248.450 and shall have general supervision over the sale of tobacco in warehouses throughout the state.

(2) The Commissioner shall employ such inspectors and other employes as are necessary for the enforcement of KRS 248.290 to 248.450 and fix the duties and compensation of such employes.

Section 4. Section 248.410 of the Kentucky Revised Statutes is amended to read as follows:

(1) All warehousemen shall submit to the Department a list of the names of all weighmen employed, and shall post with the Depart-

ment a bond in the amount of one thousand dollars for each weighman listed, with surety approved by the Department, conditioned on the faithful performance of his duty.

(2) Whenever an allegation is made that any bonded weighman has wilfully misrepresented the weight of any tobacco weighed by him, the Department shall order a hearing thereon. If, after hearing, it is determined that the weighman has wilfully misrepresented the weight of any tobacco weighed by him, his bond shall be forfeited and the proceeds thereof paid into the State Treasury. Any order of forfeiture may be appealed within twenty days to the Board of Agriculture, which after hearing may affirm or set aside such order. The order of the Board may be appealed to the Franklin Circuit Court as hereinafter provided.

(3) No person other than a bonded weighman shall be permitted to weigh tobacco for the purpose of sale at any tobacco warehouse.

(4) All tobacco placed on any warehouse floor for the purpose of sale shall be weighed by a bonded weighman. If any such tobacco is placed on the floor earlier than the fifteenth day prior to the opening date of sales for that season, it shall be weighed or re-weighed by a bonded weighman on or after said fifteenth day and such weighing or re-weighing shall constitute the official weighing for the purposes of this Chapter.

Section 5. Section 248.420 of the Kentucky Revised Statutes is amended to read as follows:

No warehouseman shall attempt by any means to influence a weighman to report falsely the weight of any tobacco sold on the floor of his warehouse.

Section 6. Section 248.430 of the Kentucky Revised Statutes is amended to read as follows:

(1) Any person who receives or undertakes to receive or take care of leaf tobacco for sale at public auction, whether with or without compensation, shall post or cause to be posted, a notice, in a conspicuous place upon his premises, stating the number of pounds in the aggregate, actually sold, and the average price per pound received on account of each day's sale. He shall post the notice not later than 9 a.m. on the day following the sale. He shall also, not less than thirty minutes prior to such a sale, post at a point in the office of his warehouse, convenient and accessible for public inspection, a typewritten or printed list showing the true name and postoffice address of the owner and producer and the number of pounds of tobacco of each person whose tobacco will that day be offered for sale in the warehouse. No tobacco shall be delivered to or received by any warehouse for sale at public auction, unless the true names and post-office addresses of the producer and owner of the tobacco are furnished the warehouse by the person delivering the tobacco.

(2) No person shall, in the notice required by subsection (1), falsify the actual number of pounds sold or the average price of the tobacco sold, or falsely list the name, post-office address or number of pounds of tobacco of any producer or owner whose tobacco will that day be offered for sale, or furnish a false name or address of the owner or producer to any warehouse.

(3) No warehouseman who posts the list of the names and post-office addresses of the owners and producers of tobacco to be offered for sale in his warehouse, as required by this section shall be liable to the holder of any lien on such tobacco, whether under a recorded chattel mortgage or otherwise, unless written notice of such lien and the amount thereof is given to the warehouseman prior to the payment of the proceeds of sale to the owner or producer; and a bona fide purchaser for value of such tobacco at auction in the ordinary course of business shall take title thereto free and clear of all liens and encumbrances.

Section 7. (1) There is hereby created in the Department of Agriculture, Labor and Statistics, a "Tobacco Auction Warehouse Board" to be composed of the Commissioner or Agriculture, Labor and Statistics, as ex-officio chairman, and six members appointed by the Governor, as follows: Two producer members from a list or lists of the names of tobacco farmers submitted by the Kentucky Farm Bureau Federation and by such other farm organizations approved by the Commissioner for the purpose of submitting such lists; two warehouse members from a list or lists of the names of tobacco auction warehouse operators submitted by the Burley Auction Warehouse Association and by such other tobacco auction warehouse organizations approved by the Commisisoner for the purpose of submitting such lists; and two buyer members from a list or lists of the names of persons engaged in the business of buying loose leaf tobacco at auction submitted by the Burley Leaf Tobacco Dealers Association and by such other tobacco buyers' trade organizations approved by the Commissioner for the purpose of submitting such lists. Before approving any such other organization for the purpose of submitting lists, the Commissioner must determine, after notice and hearing that such organization fairly represents a substantial portion of the tobacco producers, tobacco auction warehouses, or loose leaf tobacco buyers, as the case may be, in this Commonwealth. All lists so submitted shall contain at least three names.

(2) All members appointed to the Board shall serve three years, and until their successors are appointed and qualified; except that in the case of the members first appointed, two shall be appointed for one year, two for two years, and two for three years, beginning July 1, 1958. All members must be residents of the Commonwealth and no two appointed members shall be residents of the same county. Vacancies occurring during a term shall be filled by appointment for the unexpired term from a list of names submitted by the respective organization.

Section 8. (1) No person shall operate a warehouse for the sale of tobacco at public auction, or increase the floor space or selling capacity of any such warehouse, without having obtained from the Tobacco Auction Warehouse Board a permit therefor. Any person who violates any of the provisions of this section, shall, upon conviction, be fined not less than one hundred dollars nor more than one thousand dollars for each offense; and each day of operation without the required permit shall constitute a separate offense. Upon complaint filed by the Commissioner of Agriculture, Labor and Statistics, by the holder of any lawful permit issued hereunder, or by any other party in interest, violation of the provisions hereof may be enjoined by any court of competent jurisdiction.

(2) Application for any such permit shall be filed in such manner as the Board may prescribe. Upon the filing of any application, the Board shall fix a time and place for a hearing thereon. If, after hearing, it appears that existing warehouse service is inadequate, and that there is sufficient need for and the public interest requires such warehouse of such additional warehouse space in the locality in which it is proposed to be established, the Board shall grant such permit; but unless it so appears, the application shall be denied.

Section 9. Any person, partnership, firm, association, or corporation that operated a duly licensed warehouse for the sale of tobacco at public auction during the 1957-58 sales season shall, on submitting proof of such operation, be entitled to a permit for the floor space or selling capacity actually in bona fide use during such season if application for such permit is made on or before October 1, 1958.

Section 10. If any warehouse for which a permit has been issued, or any warehouse entitled to a permit under the provisions of Section 9, is damaged or destroyed by fire or other casualty, it may be repaired or rebuilt without any additional permit; but if the floor space or selling capacity is increased, a new permit for such increase must be obtained.

Section 11. (1) Any person aggrieved by any order of the Board of Agriculture in revoking, suspending or refusing a license or in forfeiting a weighman's bond, or by any order of the Tobacco Auction Warehouse Board in granting or refusing a permit, may appeal to the Franklin Circuit Court by filing a petition for review within thirty days after entry of the order appealed from.

(2) The Commissioner and all persons who appeared in the proceedings before such Board shall be made parties. The petition shall state fully the grounds upon which review is sought and shall assign all errors relied on. The appellant shall furnish a copy of the petition to each adverse party. Summons shall be issued on the petition directing the appellees to answer within twenty days after service. Within thirty days after service of summons, the Commissioner shall file a copy of the evidence and proceedings before the Board, duly certified

by him, the cost of such copy to be taxed as costs upon the appeal. In lieu of such record, an abstract thereof may be filed if agreed to by all parties to the appeal.

(3) No new or additional evidence may be introduced in the circuit court except as to fraud or misconduct affecting the order appealed from; and the court shall hear the case on the certified record or abstract thereof, its review being limited to determining whether or not the Board acted without or in excess of its power, the order was procured by fraud, the order is in conformity with the provisions of this Chapter, and the findings of fact in issue are supported by any substantial evidence.

(4) The court shall enter judgment confirming, modifying or setting aside the order, or remanding the case for further proceedings in conformity with the directions of the court. The final judgment of the circuit court may be appealed to the Court of Appeals in accordance with the Rules of Civil Procedure.

Section 12. Subsection (9) of Section 248.990 of the Kentucky Revised Statutes is amended to read as follows:

(9) Any person who violates any of the provisions of KRS 248.410 or 248.420 shall be fined not less than five hundred dollars nor more than two thousand dollars for each offense.

**SB 236:** AN ACT relating to veterinarians.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 321.350 of the Kentucky Revised Statutes is amended to read as follows:

The board may suspend or revoke a certificate of license or license for any of the causes for which it may refuse to grant a license under the provisions of this Chapter, and for the following causes:

(1) For dishonesty in applying a tuberculin test on cattle or making a false record of such test.

(2) For dishonesty in applying a brucellosis (Bang's disease) test or making a false record of such test.

(3) For the procuring of a license by fraudulent means.

(4) For false advertising of medical practice intended, or having a tendency, to deceive and defraud the public.

(5) For the conviction of any felony or crime involving moral turpitude.

(6) Any gross negligence, incompetence or misconduct in the practice of veterinary medicine in this Commonwealth.

(7) Failure to conform to the principals of veterinary ethics as prescribed by the American Veterinary Medical Association.

Committee on Health and Welfare reported **SB 208** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 208:** AN ACT relating to the practice of medicine.

WHEREAS it is the public policy of this state that, because of the close personal relationship between a patient and his or her physician, every person should be free from unreasonable restraints in the choice of his physician, and

WHEREAS it appears to the General Assembly that when any person is a beneficiary of any medical service plan (whether financed entirely by said beneficiary, or partly by the beneficiary and partly by his employer, or entirely by his employer, or otherwise):

(a) He should not be required, as a condition to the receipt of medical benefits under said plan, to waive his right to select his physician and to accept a physician selected by said plan or by any person other than himself, and

(b) Such a requirement or condition constitutes an unreasonable restraint upon such person's right to choose his personal physician,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. As used in this Act only, unless the context requires otherwise:

(1) "Medical service plan" means any plan or arrangement whereby one person provides or defrays any part of the cost of medical service to any other person.

(2) "Medical service" means any professional service in the field of medicine, osteopathy or dentistry which is performed by a licensed physician or dentist in this state.

(3) "Person" means any natural person or persons, or any partnership, association, corporation, co-operative, trust, or other legal entity, or any officer, agent, or instrumentality of any of the foregoing.

(4) "Beneficiary" means any person who in any manner receives or is entitled to receive medical service, or any part of the cost thereof, under any medical service plan in this state.

(5) "Physician", for the purposes of this Act only, means any person licensed to practice medicine, osteopathy or dentistry in this state.

Section 2. No person operating a medical service plan in this state shall demand or require, as a condition precedent to the receipt of such medical service or any part of the cost thereof, that any beneficiary waive or otherwise surrender his right to select the physician who shall perform a medical service for him or any member of his family. Every person operating a medical service plan in this state shall afford to every beneficiary thereof, the right to select the physician who shall perform such medical service.

Section 3. Every contract, agreement, or other arrangement the effect of which would deny any beneficiary under any medical service plan in this state his right to choose the physician who will perform a medical service for him or any member of his family, or impose as a condition to the receipt of said service or any part of the cost thereof that said beneficiary waive his said right, is hereby declared to be contrary to public policy and wholly void.

Section 4. Nothing contained in this Act shall prevent any person operating a medical service plan in this state from prescribing the fee which such plan will pay for a specific medical service. Provided, however, that no such person shall discriminate between qualified physicians, in payments made for like or substantially similar services.

Section 5. Nothing contained in this Act shall prevent any employer from providing the services of a physician for employment and physical examination or first aid treatment at such employer's factory or other place of business, or require said employee to pay the value of the services of such physician to any employee who elects not to avail himself of such services.

Section 6. Every person found guilty of violating Section 2 of this Act or of conspiring to do so, or of aiding or abetting another to do so, shall be fined not less than $100 nor more than $1,000, or confined in the county jail for not less than 30 days nor more than 180 days, or both.

Section 7. Any person operating a medical service plan in violation of this Act and any person aiding or abetting any such person in the violation of this Act may be enjoined from doing so by any court of competent jurisdiction in this state, upon the complaint of any beneficiary of such plan, or the Commonwealth.

Section 8. If any person convicted of violation of this Act is licensed to practice medicine, osteopathy or dentistry in this state, such conviction shall constitute sufficient grounds for the revocation of his license. If such convicted person is an officer or agent of a licensed hospital in this state, and the proof shows that such officer's or agent's acts were committed with the knowledge and consent, express or implied, of such hospital's governing body, such conviction shall be sufficient grounds for the revocation of said hospital's license.

Section 9. Every beneficiary of a medical service plan in this state shall be entitled, upon demand, to receive the medical service or benefit provided by such plan, free of any unlawful restraint or limitation upon his right to select the physician who shall render such service. If any person operating or administering a medical service plan in this state shall, fifteen days or more after proper demand has been made upon him, fail or refuse to provide such service or pay over such benefits to any beneficiary, except upon some condition declared unlawful by this Act, such beneficiary shall have a cause of action against the plan and the person operating or administering the same for damages in a sum equal to twice the value of the service or benefit to which he was entitled.

Section 10. Every person operating a medical service plan in this state shall, on or before June 30 of each year, file with the Secretary of State, a designation of a process agent having an office in this state and upon whom service of process may be had by anyone having a claim against said plan. The Secretary of State shall be entitled to a fee of $3.00 for filing this designation. Failure to file said designation shall constitute a misdemeanor and shall be punishable by a fine of not less than $10 or more than $1,000 for each day the violation continues, at the discretion of the court.

Section 11. The provisions of this Act shall have no effect on any Medical Service Plan Corporation organized under the provisions of KRS Chapter 273.

Committee on Agriculture and State Fair reported **HB 143** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 143:** AN ACT relating to federation of Farm Bureaus.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 247.370 of the Kentucky Revised Statutes is amended to read as follows:

(1) Every county farm bureau organized pursuant to KRS 247.250 shall be eligible to membership in any said state federation, but after its admission to membership, said federation shall have power to suspend its membership or expel it for failure to comply with any bylaws or reasonable rule or regulation of the federation.

(2) Any said state federation shall have authority to:

(a) Adopt, amend and repeal bylaws and amendments thereto by two-thirds vote of the voting delegates voting at an annual convention;

(b) Assess annual membership dues against each county farm bureau, and base the amount thereof on the number of paid-in memberships in each county farm bureau;

(c) Acquire, own and hold property, pursuant to action of its board of directors, or by its executive committee upon authorization or approval of its board of directors;

(d) Borrow money and mortgage or pledge its property or assets by action of its board of directors, or, by its executive committee, upon authorization or approval of its board of directors;

(e) Accept gifts, devises and bequests, appropriate and expend its funds, pursuant to action of its board of directors, or its executive committee, upon authorization or approval by its board of directors, for the advancement of agriculture and allied interests and for any purposes deemed advisable to carry on its activities; and

(f) Do anything necessary to carry out the purpose for which it is organized.

Committee on Health and Welfare reported **SB 242** with Committee Amendment attached thereto with the expression of opinion that the same should pass, and with no expression of opinion on the amendment. Read at length for the first time and ordered placed in the Calendar.

**SB 242:** AN ACT relating to poliomyelitis.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. A new section of the Kentucky Revised Statutes is created to read as follows:

(1) No child shall be eligible to enroll as a student in any public or private school without furnishing a certificate from a reputable physician that he or she has been successfully innoculated with poliomyelitis vaccine.

(2) The Department of Health shall supply to each county health department a supply of poliomyelitis vaccine sufficient to innoculate each pre-school age child whose parents or legal custodian is financially unable to pay for having the child innoculated.

Committee on Health and Welfare reported **SB 222** and **SB 128** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 222:** AN ACT relating to the gift or bequest of dead bodies or parts thereof.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Any person in the Commonwealth of the age of twenty-one years or more and of sound mind may, by will or by a written instrument executed in the presence of at least two attesting witnesses, give, grant or bequest his body to any professor or medical school or college authorized by KRS 311.300 to KRS 311.350 to procure or receive dead bodies for educational or scientific purposes, or may give, grant or bequeath any part of his body to any responsible person or group of persons, natural or corporate, whom the State Board of Health finds is equipped to properly receive and preserve the same for educational or scientific study or to transplant into the body or bodies of living persons. Any such disposition of his body or part thereof may be revoked by the testator of grantor at any time prior to his death by the execution of a written instrument in the same manner as the original legacy or grant.

Section 2. Any person or persons having the right to a body for burial may likewise consent to such use of the body or part thereof as set forth in Section 1.

Section 3. For the purpose of this Act, the persons having the right to dispose of a body are as follows:

(1) The surviving spouse, if any, and if none,

(2) The person or persons who are entitled to the real property of the deceased under KRS 391.010, and if none,

(3) The person, agency, institution, or organization having the obligation to bury such body.

Section 4. The State Board of Health shall, by regulation, fix reasonable standards with respect to qualifications, equipment, facilities and experience to be required of persons desiring to qualify to receive parts of human bodies, as hereinabove provided. The board may, if it deems it desirable, include in such regulation a requirement that authorized recipients of parts of human bodies post a bond conditioned upon compliance with all the terms and conditions of said regulation.

**SB 128:** AN ACT relating to Dental Service Plan Corporations.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. As used in this Act unless the context requires otherwise:

(1) "Board" means the Kentucky State Board of Dental Examiners.

(2) "Dental service" means the general and usual services rendered and care administered by doctors of dentistry.

(3) "Dental service plan" means a plan or arrangement under which dental services are or may be rendered to a subscriber by a licensed dentist at the expense of a dental service plan corporation.

(4) "Participating dentist" means a doctor of dentistry who is a member of a dental service plan corporation as provided by this Chapter.

Section 2. (1) A corporation may be organized as a dental service plan corporation under the provisions of KRS Chapter 273 to render limited or unlimited dental service as provided in this Act.

(2) The articles of incorporation of every dental service plan corporation shall be presented to both the Commissioner of Insurance and the board for approval. The approval shall be endorsed in writing before the articles are filed in the office of the Secretary of State or recorded in the county clerk's office.

(3) Before the board and the commissioner shall approve such articles of incorporation, they shall determine that the proposed corporation is in the public interest.

Section 3. (1) No dental service plan corporation shall engage in business until it has deposited with the Custodian of Insurance Securities, securities acceptable to him in the sum of five thousand dollars to insure that it will faithfully comply with its contracts for dental service. This security shall remain on deposit during the life of the corporation. Reasonable additional security may be required by the Commissioner of Insurance after the corporation has written contracts in excess of five thousand in number.

(2) The funds of the corporation shall be invested only in securities permitted by the laws of this state for investment of assets of life insurance companies.

Section 4. No dental service plan corporation shall operate in any county unless fifty-one percent of the eligible licensed doctors of dentistry, practicing in that county, are participating dentists.

Section 5. (1) Every doctor of dentistry licensed to practice in this state under the provisions of KRS Chapter 313, and in good standing, shall have the right to become a participating dentist in the dental service plan corporation operating in the county in which he resides or practices for general or special dental care, as the case may be, under such terms and conditions as are imposed on other participating dentists under similar circumstances. A dental service plan corporation shall impose no restrictions on the doctors of dentistry who treat its subscribers as to methods of diagnosis or treatment, or as to rights to engage in other practice. The private dentist-patient relationship shall be maintained and the subscriber shall at all times have free choice of any doctor of dentistry who is a participating dentist in the corporation and who agrees to accept a particular beneficiary as a patient.

(2) Members of a dental service plan corporation shall enter into written agreements with the dental service plan corporation agreeing to perform the dental services specified by the corporation at such rates of compensation as will be determined by the board of directors of the corporation, and agreeing to abide by the bylaws, rules and regulations of the corporation.

Section 6. No contract for dental service shall be issued to contract holders until it has been approved in writing by the board. No participating dentist shall enter into any contract until the contract has been approved in writing by the board.

Section 7. (1) The rate to be charged by a dental service plan corporation to the subscribers for dental service shall be filed with the commissioner and shall at all times be subject to his approval.

(2) In order that the corporation may remain solvent, all costs or expenses in connection with the conduct of the corporation, including salaries, commissions, expense allowances, solicitation of subscribers and overhead shall at all times be subject to the approval of the commissioner. No payment shall be made by the corporation except for dental services or for services actually rendered in the operation of the corporation.

Section 8. Every dental service plan corporation shall annually as of March 1 file in the office of the commissioner a statement verified by at least two of the principal officers of the corporation, showing its financial condition on December 31 next preceding, which shall be in the form and contain the matters prescribed by the commissioner. The commissioner or any person he so designates may examine the affairs of any dental service plan corporation and have free access to all the books, papers and documents that relate to the business of the corporation. They may summon and qualify a witness under oath to examine its officers, agents, or employes or other persons in relation to the affairs and transactions and condition of the corporation. The cost of the examination shall be paid by the corporation as provided by law for the examination of insurance companies.

Section 9. Any dissolution or liquidation of a dental service plan corporation shall be accomplished in the same manner as is provided by the laws of this state pertaining to the dissolution or liquidation of insurance companies.

Section 10. (1) The laws of this state pertaining to the licensing of casualty insurance agents which provide penalties for violations and for suspension and revocation of agents' licenses and prohibit unauthorized insurance companies from doing business in this state, and the laws relative to the enforcement of contracts with such companies, shall apply to dental service corporations and their agents.

(2) A dental service plan corporation shall be exempt from all provisions of the insurance laws of this state, except as otherwise specifically provided in this Act. No amendment to the insurance laws shall apply to dental service plan corporations, unless the amendment specifically so states.

Committee on Revenue and Taxation reported **SB 177** and **HB 12** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 177**: AN ACT relating to revenue and taxation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 134.320 of the Kentucky Revised Statutes is hereby amended to read as follows:

(1) The sheriff shall, by the tenth day of each month, or more often as may be required by the Department of Revenue to prevent the sheriff from having funds in his possession in excess of the amount of his bond, report under oath to the department the amount of all state taxes he has collected during the preceding month, or for such period as the department may require.

(2) The sheriff shall, at the time of making this report, pay to the department, for deposit with the State Treasurer, all taxes he has collected for the state for the preceding month or period.

(3) The department may report to the grand jury of Franklin County at each term of circuit court any sheriff failing to report as re-

quired. Any sheriff failing to pay over any taxes collected by him and due the state, as provided by law, shall be required by the department to pay a penalty of six percent but not to exceed $500 plus interest at the rate of six percent per annum on such taxes. The department in its settlement with the sheriff shall charge him with such penalties.

**HB 12:** AN ACT relating to taxation of non-profit race tracks, repealing KRS 138.512.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 138.512 of the Kentucky Revised Statutes is repealed.

Committee on Education reported **SB 76** with Committee Amendment attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 76:** AN ACT relating to sick leave for teachers.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 161.155 of the Kentucky Revised Statutes is amended to read as follows:

(1) For the purpose of this section, "teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state with the exception of superintendents, supervisors and attendance officers.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten days' sick leave during each school year, without deduction of salary, provided he presents a personal affidavit or a certificate of a reputable physician stating that he was ill on the day or days absent.

(3) Any days of sick leaves not taken during any school year shall accumulate and may be taken in any subsequent school year or years, except that no teacher shall be entitled to take more than one hundred and eighty days of accumulated leave.

Committee on Executive and Legislative Affairs reported **HB 35** with Committee Amendment attached thereto, **SB 14, SB 241, SR 55, SB 227, SR 9** with Committee Amendment attached thereto, **SB 238, SB 237, SR 53** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 35:** AN ACT relating to the standard of time.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 2.160 of the Kentucky Revised Statutes is amended to read as follows:

(1) The standard time fixed and prescribed for the Commonwealth of Kentucky by Act of Congress or by order of the Interstate Commerce Commission shall apply to and govern all laws, regulations and rules relating to the time of performance of any act by any officer or department of the Commonwealth, or of any county, city or subdivision or agency thereof, or relating to the time that any right shall accrue or determine, or within which any act shall or shall not be performed by any person subject to the jurisdiction of the Commonwealth, and in all the public schools and institutions of the Commonwealth and on the public works of the Commonwealth or any county, city or district thereof, or in all contracts or choses in action made or to be performed in the Commonwealth.

(2) No person, firm or corporation operating or maintaining a place of business of any kind shall employ, display, or maintain any other standard of time than that provided in this section.

Section 2. Any person who violates KRS 2.160 shall be fined not less than twenty-five dollars not more than five hundred dollars, or imprisoned not less than ten days not more than thirty days, or both. Each day of such violation shall be a separate offense.

**SB 14:** AN ACT relating to establishment of Bryan's Station State Park.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. (1) There shall be a state park at the site of the original Bryan's Station in Fayette County, Kentucky, which park shall be known as Bryan's Station State Park. This park shall consist of no more than fifty acres and shall be developed for historical and/or recreational purposes at the discretion of the Commissioner of Conservation, in commemoration of the historical significance of Bryan's Station in the history and traditions of the Commonwealth.

(2) The Division of Parks is hereby authorized to acquire real property in an amount to be determined by the Commissioner, on or near the site of the original Bryan's Station in accordance with the provisions of KRS 148.060. The Division of Parks is further authorized to provide for the maintenance of Bryan's Station State Park in the manner provided by law for other state parks.

**SB 241:** AN ACT relating to jurisdiction of constables.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 70.350 of the Kentucky Revised Statutes is amended to read as follows:

(1) Constables may execute warrants, summons, subpoenas, attachments, notices, rules and orders of court in all criminal, penal and

civil cases, and shall return all process placed in their hands to the courts or persons issuing them, on or before the return day, noting the time of execution on them.

(2) A constable may exercise the duties of his office in any part of the county, but shall not exercise the duties of his office in any magisterial district other than his own, unless the constable for such other magisterial district is physically incapacitated or otherwise unable effectively to exercise the duties of his office in said magisterial district. He shall not execute any process in which he is personally interested except fee bills for his own service. He shall not levy on or sell land, or any interest therein.

(3) The constable shall not be compelled to receive a precept, fee bill or order for witness attendance, or other claim against any person who is known to be and to reside out of his district, unless the precept is in behalf of the Commonwealth or is a precept against property in his district. But if a constable voluntarily receives such precept, fee bill, order for witness attendance or other claim, he and his sureties shall be accountable for the same as if the person it is against resided or was in his district, or had property therein.

**SR 55:** A RESOLUTION authorizing the Adjutant General of Kentucky to certify the service of Harold R. Morris in the 3rd Infantry of the Kentucky National Guard.

WHEREAS, it appears by affidavits of Irl Schenk and Carl Schenk that Harold R. Morris served in Company C, 3rd Infantry Kentucky National Guard from on or about March 8, 1907, to March 7, 1910;

WHEREAS, it further appears from correspondence from the Adjutant General of the Army of the United States, by order of the Secretary of the Army, that the records of the General Accounting Office show that Harold R. Morris was carried on payrolls of Company C, 3rd Infantry, Kentucky National Guard, from July 9 to July 18, 1907; that he was credited with three years active service; and

WHEREAS, it further appears by affidavit of Harold R. Morris that he caused to be made numerous searches of the records of the office of the Adjutant General of Kentucky, both by employes of the office and by privately employed counsel; that no record was found of his service, but that one John Morris was found to have been on the muster rolls, indicating that his possible enlistment date was March 8, 1907, and that Harold R. Morris was known by the nickname of "Long John" Morris;

NOW, THEREFORE,

*Be it resolved by the Senate of the Commonwealth of Kentucky:*

That the Adjutant General of Kentucky is authorized and directed to certify the service of Harold R. Morris in Company C, 3rd Infantry, Kentucky National Guard, from March 8, 1907, to March 7, 1910.

**SB 227:** AN ACT repealing KRS 57.330 which requires distribution of copies of the Acts of Congress to enumerated public officials.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 57.330 of the Kentucky Revised Statutes, relating to distribution of copies of the Acts of Congress, is hereby repealed.

**SR 9:** A JOINT RESOLUTION authorizing and directing a continuing study and evaluation of the common school system of the Commonwealth.

WHEREAS, the Minimum Foundation Law enacted in 1954, as implemented and more fully financed by the 1956 General Assembly, is designed to improve the common school system of the Commonwealth, not only with respect to compensation of teachers, physical structures, equipment, quantity and quality of pupil transportation vehicles, but more importantly in providing future citizens and leaders with progressively better educational opportunities;

WHEREAS, many compelling reasons involving among others matters of economics, social welfare and, probably the most compelling of any, national security make it mandatory that the rate of improvement not only continue uninterruptedly, but that it be accelerated;

WHEREAS, it appears that a continuing study evaluating the accomplishments of the system and identifying those policies and practices which are contributing and those which are not contributing to the desired end will be of invaluable aid in determining future action of the General Assembly in its efforts to provide ways and means of increasing educational opportunities and efficiency;

WHEREAS, the expenditure of $60,105,700 for 1958-1959 and $62,481,300 for 1959-1960 is contemplated, which sums represent an increase of eighty-four percent over the 1954-1956 biennium, it is imperative in the interests of economy and efficiency that such a continuing evaluation be made; and

WHEREAS, the magnitude and scope of such appraisal makes it necessary for the Legislative Research Commission to employ additional personnel in order that it may be accomplished promptly and in an impartial, thorough, and painstaking manner;

NOW, THEREFORE,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Legislative Research Commission be, and is, hereby authorized and directed to make a continuing and comprehensive study of the common school system, evaluating the accomplishments of the minimum foundation program and continuously reappraising the system in terms of funds expended, opportunities offered, and results obtained.

Section 2. That the Departments of Finance and Education and the local school districts be, and are, hereby directed to extend to the Legislative Research Commission their full and complete cooperation by supplying any required records, statistics, materials, and reports and in any other particular in which the study may be implemented.

Section 3. That the Legislative Research Commission be, and is, hereby authorized to employ such additional personnel, qualified and experienced in the field of educational research, as it may deem necessary to perform the directed evaluation.

Section 4. That periodic reports on the results of the study be submitted to the members of the General Assembly at such times as results warrant, but in any event a report shall be prepared for each regular session of the General Assembly.

Section 5. That the sum of $30,000 is appropriated to the Legislative Research Commission out of the General Fund for the purposes of this resolution, which sum shall not lapse at the end of the 1958-1959 fiscal year, but shall be carried over into the 1959-1960 fiscal year.

**SB 238:** AN ACT relating to powers of governmental agencies.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The purpose of this Act is to permit local governmental units to make the most efficient use of their powers by enabling them to co-operate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities.

Section 2. As used in this Act, unless the context requires otherwise: "public agency" means any political subdivision of the Commonwealth, any agency of the Commonwealth or of the United States, or any political subdivision of another state.

Section 3. (1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency may be exercised and enjoyed jointly with any public agency of any other state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the Commonwealth when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this Act upon a public agency.

(2) Any two or more public agencies may enter into agreements with one another for joint or co-operative action pursuant to the provisions of this Act. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(3) Any such agreement shall specify the following:

(a) its duration;

(b) the precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created;

(c) its purpose;

(d) the manner of financing the joint or co-operative undertaking and of establishing and maintaining a budget therefor;

(e) the permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(f) any other proper and necessary matters.

(4) In the event that the agreement does not establish a separate legal entity to conduct the joint or co-operative undertaking, the agreement shall, in addition to the provisions required by paragraphs (a), (c), (d), (e), and (f) of subsection (3), contain the following:

(a) provision for an administrator or a joint board responsible for administering the joint or co-operative undertaking which in the case of a joint board shall provide for representation of public agencies party to the agreement;

(b) the manner of acquiring, holding and disposing of real and personal property used in the joint or co-operative undertaking.

(5) No agreement made pursuant to this Act shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, the performance may be offered in satisfaction of the obligation or responsibility.

(6) Every agreement made hereunder shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the agreement made hereunder is in proper form and compatible with the laws of the Commonwealth. The Attorney General shall approve any agreement submitted to him hereunder unless he finds that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within thirty days of its submission shall constitute approval thereof.

Section 4. Prior to its entry into force, an agreement made pursuant to this Act shall be filed with the county clerk of each county affected by the agreement and with the Secretary of State. In the event that an agreement entered into pursuant to this Act is between or among one or more public agencies of the Commonwealth and one or more public agencies of another state or of the United States, the agreement shall have the status of an interstate compact, but in any case or controversy involving performance or interpretation thereof or liability thereunder, the public agencies party thereto shall be real parties in interest and the Commonwealth may maintain an action to recoup or otherwise make itself whole for any damages or liability which it may incur by reason of being joined as a party therein. Such action shall be maintainable against any public agency or agencies whose default, failure of performance, or other conduct caused or contributed to the incurring of damage or liability by the Commonwealth.

Section 5. In the event that an agreement made pursuant to this Act shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the Commonwealth has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the Attorney General as provided by Section 3 of this Act. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the Attorney General.

Section 6. Any public agency entering into an agreement pursuant to this Act may appropriate funds and may sell, lease, give, or otherwise supply the administrative entity created to operate the joint or co-operative undertaking by providing such personnel or services therefor as may be within its legal power to furnish.

**SB 237:** AN ACT relating to employes' retirement.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Any member of the system who, prior to the date he first participated in the system, was transferred into the service of the United States Government under Presidential Executive Order 8990 dated December 23, 1941, as a part of the mobilization of manpower during the emergency of World War II, and who continued his service with the United States until his return to the employ of the State under the provisions of Public Law 549, 79th Congress, or who prior thereto returned to State service without intervening employment, shall be credited with service in the system on the same basis as if he had remained in the employ of the State. Any member who, while in the above employment status, was inducted into the Armed Forces of the United States shall receive credit for service in the same manner as provided in subsection (2) of KRS 61.555.

**SR 53:** A JOINT RESOLUTION extending to the Sue Yarborough School of the Dance the invitation of the General Assembly to present its pupils in review before the members of the Senate and the House of Representatives of the Commonwealth of Kentucky.

WHEREAS, graduates and students of the Sue Yarborough School of the Dance have distinguished themselves as practitioners of the art of the dance and choreography; and

WHEREAS, the members of the General Assembly of the Commonwealth of Kentucky wish to be accorded the privilege of witnessing a review by such accomplished terpsichoreans;

NOW, THEREFORE,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the Sue Yarborough School of the Dance be and is hereby invited to present its pupils in review before the General Assembly of the Commonwealth of Kentucky on Tuesday, March 4, 1958, at 2 p.m., Central Standard Time.

Committee on Labor and Industry reported **SB 129** with the expression of opinion that the same should pass by way of committee substitute. Committee substitute for **SB 129** read at length for the first time and ordered placed in the Calendar.

Committee Substitute for **SB 129:** AN ACT relating to workmen's compensation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 342.020 of the Kentucky Revised Statutes is amended to read as follows:

(1) In addition to all other compensation provided in this chapter, the employer shall furnish for the cure and relief from the effects of an injury or occupational disease, such medical, surgical and hospital treatment, including nursing, medical and surgical supplies and appliances, as may reasonably be required at the time of the injury and thereafter during disability, or as may be required for the cure and treatment of an occupational disease, but not exceeding a total expense to the employer of more than twenty-five hundred dollars. If the employer fails to furnish such treatment reasonably, he shall be liable for the reasonable expense, within the limits of this section, incurred by or on behalf of the employe in providing such treatments. In an emergency, the employe may call in any available physician or surgeon to

administer any first aid reasonably necessary at the expense of the employer within the limits of this section. The board, in its discretion, may apportion payments to be made under this section between hospitals and physicians in cases where their aggregate fees and charges would exceed the maximum for which the employer is liable.

(2) However, further medical, surgical and hospital treatment, not to exceed an additional twenty-five hundred dollars, may be ordered by the board upon application and sufficient showing of justifiable need therefor.

(3) Where a compensable injury or occupational disease results in the amputation of an arm, hand, leg or foot, or the loss of hearing, or the enucleation of an eye or the loss of natural teeth, the employer shall initially furnish in addition to other medical, surgical and hospital treatment enumerated in subsections (1) and (2) of this section, a modern artificial member, and where required, proper braces but the employer's liability for such artificial member or braces shall not, including his liability for medical, surgical and hospital treatment exceed the total provided by subsections (1) and (2) of this section.

Section 2. Section 342.095 of the Kentucky Revised Statutes is amended to read as follows:

(1) When the injury or occupational disease causes total disability for work, the employer, during such disability, except for the first seven days thereof, shall pay the employe a weekly compensation equal to sixty-five percent of his average weekly earnings, not to exceed thirty-four dollars nor less than twelve dollars per week, such payments to be made during the period of total disability but not longer than four hundred twenty-five weeks after the date of the injury, or after the date his disability from an occupational disease began, nor in any case to exceed a maximum sum of fourteen thousand, four hundred and fifty dollars. If the period of total disability begins after a period of partial disability, the period of partial disability shall be deducted from the total period of four hundred twenty-five weeks during which compensation for total disability may be payable, and the payments made on account of such partial disability shall be deducted from the maximum of fourteen thousand, four hundred and fifty dollars.

(2) In case of the following injuries or disabilities from occupational disease the disability shall be considered total and permanent:

(a) The total permanent loss of sight in both eyes.
(b) The loss of both feet at or above the ankle.
(c) The loss of both hands at or above the wrist.
(d) A similar loss of one hand and one foot.
(e) A similar loss of one hand and one eye.
(f) A similar loss of one foot and one eye.
(g) A disability to the spine, resulting in permanent and complete paralysis of both arms or both legs, or of one arm and one leg.

(h) A disability to the skull resulting in incurable insanity or imbecility.

(3) The enumeration in subsection (2) is not exclusive, but in all other cases the burden of proof shall be on the claimant to prove that his injuries or disability resulting from an occupational disease have resulted in permanent total disability.

Section 3. Section 342.105 of the Kentucky Revised Statutes is amended to read as follows:

For injuries or disabilities from an occupational disease enumerated in the following schedule the employe shall receive, in addition to temporary total disability compensation for the period of actual total disability, not exceeding twenty weeks, a weekly compensation equal to sixty-five percent of his average weekly earnings, but not less than twelve dollars per week nor exceeding twenty-six dollars per week for the periods stated thereon:

(1) For the loss of a thumb, sixty-five percent of the average weekly wages during sixty weeks.

(2) For the loss of a first finger, commonly called the index finger, sixty-five percent of the average weekly wages during forty-five weeks.

(3) For the loss of a second finger, sixty-five percent of the average weekly wages during thirty weeks.

(4) For the loss of a third finger, sixty-five percent of the average weekly wages during twenty weeks.

(5) For the loss of a fourth finger, commonly known as the little finger, sixty-five percent of the average weekly wages during fifteen weeks.

(6) The loss of the second, or distal phalange, of the thumb shall be considered to be equal to the loss of one-half of the thumb, the loss of more than one-half of the thumb shall be considered equal to the loss of the whole thumb.

(7) The loss of the third, or distal phalange of any finger shall be considered to be equal to the loss of one-third of the finger.

(8) The loss of the middle, or second phalange, of any finger shall be considered equal to the loss of two-thirds of the finger.

(9) The loss of more than the middle and distal phalanges of any finger shall be considered equal to the loss of the whole finger, but in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

(10) For the loss of a metacarpal bone (bone of the palm) for the corresponding thumb, finger or fingers above add ten weeks to the number of weeks as above.

(11) For ankylosis (total stiffness of) or contractures (due to sears or injuries) which makes the fingers more than useless, the same number of weeks apply to such finger or fingers (including thumb) as given above.

(12) For the loss of a hand, sixty-five percent of the average weekly wages during one hundred fifty weeks.

(13) For the loss of an arm, sixty-five percent of the average weekly wages during two hundred weeks.

(14) For the loss of one of the toes, other than the great toe, sixty-five percent of the average weekly wages during ten weeks.

(15) For the loss of the great toe, sixty-five percent of the average weekly wages during thirty weeks.

(16) The loss of more than two-thirds of any toe shall be considered to be equal to the loss of the whole toe.

(17) The loss of less than two-thirds of any toe shall be considered to be equal to the loss of one-half toe.

(18) For the loss of a foot, sixty-five percent of the average weekly wages during one hundred twenty-five weeks.

(19) For the loss of a leg, sixty-five percent of the average weekly wages during two hundred weeks.

(20) For the total and permanent loss of the sight of an eye, sixty-five percent of the average weekly wages during one hundred weeks, plus an additional twenty weeks in cases where the eyeball is enucleated.

(21) For the total and permanent loss of hearing in one ear, sixty-five percent of the average weekly wages during seventy-five weeks.

Section 4. Section 342.111 of the Kentucky Revised Statutes is amended to read as follows:

(1) When an employe, who has been awarded disability compensation by the Workmen's Compensation Board, shall die as a result of such injury or occupational disease prior to the payment to him of the amount of the award, then the dependents of the deceased employe shall be allowed and paid all allowed and unpaid awards made to such employe. Provided, however, that the dependents of such deceased employe shall, within six months after the death of such employe, file with the Workmen's Compensation Board, in such form as the board may require, a written verified application, stating therein the date of the death of such deceased employe; the amount of such allowed and uncollected award; the name, age, postoffice address, and the relation of each of said dependents to the deceased. Thereupon the Workmen's Compensation Board shall notify in writing the company, person or insurance carrier against whom such award was made; and shall fix a time and place for a hearing, of which notice shall be given, to determine the dependency of those making such claim; and shall make an award or order for the benefit of those found to be entitled thereto. Provided, however, that the number of weekly payments to be paid to the dependents shall be the number of weeks remaining after deducting the number of weekly payments made to the decedent from the number of weeks allowed in the original award.

(2) The total amount paid and payable to the decedent and his dependents shall not exceed the amount now payable for death at the average weekly wage of the decedent at the time of his injury, and the weekly payments to the dependents shall not exceed the sum of thirty dollars a week.

Section 5. Section 342.110 of the Kentucky Revised Statutes is amended to read as follows:

In all other cases of permanent partial disability, including any disfigurement which will impair the future usefulness or occupational opportunities of the injured employe, or employe disabled by an occupational disease, compensation shall be determined according to the percentage of disability, taking into account, among other things, any previous disability, the nature of the physical injury or disfigurement, the occupation of the injured employe and age at the time of injury or at the time the disability from an occupational disease began. In no event shall compensation for an injury or disability to a member exceed the amount allowable for the loss of such member. The compensation paid therefor shall be sixty-five percent of the average weekly earnings of the employe but not less than twelve dollars nor more than twenty-nine dollars, multiplied by the percentage of disability caused by the injury or occupational disease, for such period as the board determines, not exceeding four hundred weeks nor a maximum sum of eleven thousand, six hundred dollars. Compensation payable under this section shall not be affected by the earnings of the employe after the accident, or after his disability from an occupational disease, whether they be the same, or greater, or less than prior to the accident or disability from an occupational disease. Whenever the weekly payments under this section would be less than twelve dollars per week, the period may be shortened and the payments correspondingly increased to that amount. Where compensation, except as provided in KRS 342.020 and 342.030, is paid under any other provision of this chapter, the period during which such other compensation is paid shall be deducted from the maximum period which may be paid under this section.

Section 6. Section 342.265 of the Kentucky Revised Statutes is amended to read as follows:

(1) If the employe and employer reach an agreement conforming to the provisions of this chapter in regard to compensation, a memorandum of the agreement shall be filed with the board, and, if approved by it, shall be enforceable as is herein provided for the enforcement of awards of the board. Nothing shall operate as a final settlement except a memorandum of agreement filed with and approved by the board in accordance with this section. No limitations of time shall begin to run until the date upon which such agreement is filed with and approved by the Board.

(2) Any person who fails to file an agreement as required by subsection (1) of this section shall be fined not less than one hundred nor more than five hundred dollars.

### Calendar

**HB 93, HB 140, SB 225, SB 233, SB 145, HB 72, SB 137, SB 70, SB 202, SB 203, SB 199** were taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that they be read by title only. Agreed by a majority of the members elected. Ordered placed in Orders of the Day.

Senator McCann, moved suspension of the Rules for the purpose of introducing bills. Agreed.

### Introductions

**SB 271**, by Senator Knuckles: AN ACT relating to insurance.

**SB 272**, by Senator McCann: AN ACT relating to traffic regulation.

### Orders of the Day

**SB 9** taken from the Orders of the Day and ordered read at length for the third time. Senator Duffy moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Van Hoose proposed an Amendment to **SB 9.**

Amend printed copy of **SB 9** on page 1 and 2, section (1), lines 3 through 22 by deleting said subsection (1) in its entirety and inserting in lieu thereof the words:

"(1) The board of aldermen of every city of the first class, in addition to levying ad valorem taxes, may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation or profession, and the using, holding, or exhibiting of any animal, article, or other thing. License fees on such business, trade, occupation or profession for revenue purposes may be imposed at a percentage rate or rates not to exceed those hereinafter set forth on (a) salaries, wages, commissions and other compensations earned by every person within the city for work done and services performed or rendered in the city (all of such being hereinafter collectively referred to as "wages"), and (b) the net profits of all businesses, professions, or occupations from activities conducted in the city (hereinafter collectively referred to as "net profits"). Licenses imposed for regulatory purposes shall not be subject to such limitations as to form and amount. No company that pays an ad valorem tax and a franchise tax shall be required to pay a license tax, and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company or combined trust, banking and title business in this state, or in other case where the city is prohibited by statute from imposing a license tax.

The rate or rates fixed may be in accordance with either of the following plans:

(a) a rate on both "wages" and "net profits" of not to exceed one percent; or

(b) a rate on both "wages" and "net profits" of one and one-fourth percent.

Provided, however, that the authorization granted by this Act with respect to plan (b) shall expire as of December 31, 1958; provided further that, prior to said expiration date, the board of aldermen may by ordinance impose a rate of one and one-fourth percent for an indeterminate period of time, but no such ordinance shall go into effect until the expiration of thirty days after its passage. If during the thirty days next following the passage of such ordinance, a petition signed by a number of constitutionally qualified voters equal to fifteen (15) percent of the votes cast in the city at the last preceding general election, stating the residence of each signer, and verified as to signatures and residences by the affidavits of one or more persons is presented to the board of aldermen protesting against passage of such ordinance, the ordinance shall be suspended from going into effect and shall be reconsidered by the board of aldermen. If the ordinance is not then repealed, the board shall submit to the voters of the city, at a regularly scheduled election or at an election held for that purpose prior to January 1, 1959, the question as to whether a rate of one and one-fourth percent shall be levied. The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the ordinance shall not go into effect. If a majority of the votes cast upon the question favor its passage the ordinance shall go into effect as of January 1, 1959.

Senators Duffy and Young demanding a roll call on the Amendment to **SB 9**, the vote was: Yeas, 22—Bassett, Blake, Byers, Cornett, C. H. Davis, Mrs. J. H. Davis, Duncan, Fields, Greene, Hamilton, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, Miller, Overbey, Richmond, Robinson, Van Hoose, Warinner; Nays, 15—Blue, Bonn, Clay, Duffy, Francis, Freeman, Hickerson, Howard, Kidwell, McCann, Melton, Reuscher, Ware, Willis, Young.

The Amendment to **SB 9** was adopted.

Senator Duffy moved that **SB 9** be recommitted.

Senator Bassett, seconded by Senator Van Hoose, moved the Previous Question on **SB 9** and demanded a roll call.

The Chair ruled that the motion for Previous Question takes precedence, and on roll call on the motion for Previous Question, the vote was: Yeas, 24—Anggelis, Bassett, Blake, Byers, Cornett, C. H. Davis, Mrs. J. H. Davis, Duncan, Fields, Greene, Hamilton, Howard, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, Miller, Overbey, Richmond, Robinson, Van Hoose, Warinner; Nays, 14–Blue, Bonn, Clay, Duffy, Francis, Freeman, Hickerson, Kidwell, McCann, Melton, Reuscher, Ware, Willis, Young.

The motion carried.

On roll call, the vote on **SB 9** was: Yeas, 24– Anggelis, Bassett, Blake, Byers, Cornett, C. H. Davis, Mrs. J. H. Davis, Duncan, Fields, Greene, Hamilton, Howard, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, Miller, Overbey, Richmond, Robinson, Van Hoose, Warinner; Nays, 13–Blue, Bonn, Duffy, Francis, Freeman, Hickerson, Kidwell, McCann, Melton, Reuscher, Ware, Willis, Young.

**SB 9** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed by voice vote.

### Recess

Senator Warinner moved that the Senate do now adjourn for thirty minutes. Agreed. At the appointed hour, the President of the Senate called the Senate to order.

### Orders of the Day

**SB 143** taken from the Orders of the Day. Senator Bassett moved that **SB 143** be laid on the Clerk's desk. Agreed.

**SB 104** taken from the Orders of the Day. Senator Anggelis moved that consideration of said bill be deferred and it retain its place in Orders of the Day. Agreed.

**SB 174** taken from the Orders of the Day. Senator Melton moved that **SB 174** be recommitted. Agreed by voice vote.

**SB 47** taken from the Orders of the Day and ordered read at length for the third time. Senator Anggelis moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Anggelis proposed an Amendment to **SB 47.**

Amend printed copy of **SB 47** on page 2, section 3, line 6 and 7 after the word "as" on line six, delete "otherwise provided in this Chapter," and insert in lieu thereof "to specific matters expressly required by statute to be kept confidential."

Senator Anggelis moved the adoption of said Amendment. Adopted by voice vote.

Senator Anggelis moved the Previous Question on **SB 47** as amended. Agreed.

On roll call, the vote was: Yeas, 35–Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Van Hoose, Warinner, Willis, Young. Nays, 2—Overbey, Ware.

**SB 47** was passed and the title agreed to.

Senator Anggelis moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

### Introductions

Senator Richmond moved to suspend the Rules for the purpose of introducing bills. Agreed.

**SB 273**, by Senator Richmond: AN ACT relating to newspaper publications for the purpose of legal notice or advertisement; including provisions to govern publications required by law to be made, and requiring certain matters to be published.

**SB 274**, by Senator Clay: AN ACT relating to absent voting.

### Reference of Bills

The President announced referral of the following bills and resolutions:

Judiciary: **SB 243, SB 260, HB 223.**

Executive and Legislative Affairs: **SB 244, SB 255, SB 261, SR 50, SR 56, HB 83, HB 202.**

Ways and Means: **SB 245, SB 250, SB 252, SB 253, HB 26.**

Labor and Industry: **SB 246.**

Revenue and Taxation: **SB 247.**

Education: **SB 248, SB 249, SB 256, SB 259.**

State and County Government: **SB 251.**

Appropriations: **SB 254.**

Health and Welfare: **SB 257.**

Conservation: **SB 258.**

### Motions

Senator Hamilton moved to suspend the Rules for the purpose of appointing Honorary Pages in the Senate. Agreed.

Senator Ware moved that Mary Ann Govan be made an Honorary Page of the Senate. Agreed.

Senator Warinner moved that James Lyle Thomas be made an Honorary Page of the Senate. Agreed.

Senator Young moved that Roger Auge be made an Honorary Page of the Senate. Agreed.

Senator Anggelis moved that Chris N. Anggelis and Patricia N. Anggelis be made Honorary Pages of the Senate. Agreed.

Senator Greene moved that Don Lindsey be made an Honorary Page of the Senate. Agreed.

Senator Fields moved that Russell Corbett Noplis and M. Terence Fitzpatrick be made Honorary Pages of the Senate. Agreed.

Senator Howell moved that Chester Eugene Flint, Joe Gary Flint, Debra Lynn Flint, Laura Mesta Davis, Coetta Jene Bolen, Teresa Ann Bolen, French Roger Bolen, Belladee Davis, and Sky Akers Martin be made Honorary Pages of the Senate. Agreed.

Senator Warinner moved that Dick Schmidt be made an Honorary Page of the Senate. Agreed.

Senator Miller moved that James Warren Menefee, Debbie Sheldon Miller, Clifford Clark, William Clark, John Rodgers Kaseberg, Annette Bolling Stoll, Charles Sutcliffe Stoll, Paul Bickel, Nancy Ferguson Bickel, Cynthia Martha Holliger, Susan Carol Holliger, Charlotte Ann Holliger, Toni Bennett, Mike Bennett, Tommy Stevenson, Billy Stevenson, Leslie Stayer, Mark Joseph Smith, Nancy Norton Dugan, Jenifer Lea Royer, Johnny Young, Martha Warren Seldon, Leslie Seldon, John Grame McCowan, Dennis Edwin Homrich, Kathy Homrich, William Kerry Hipps be made Honorary Pages of the Senate. Agreed.

Senator Francis moved that Judie Perry and Donna Durham be made Honorary Pages of the Senate. Agreed.

Senator Hamilton moved that William Rhodes Kelly, Millie Ann Butcher, Gene Butcher, Sue Carol Durcan, Deborah Lynn Durcan, Tommy Wilson, Mat Wilson, Jack Hamilton, Richard Hall Wolfe, Bryan Louis Wolfe, Craig Bradley, Mary Bradley, Sharon Lee Kazee, Lucy Ann Platt, Donna Lee Platt, Johnny Jarvis, Alice Jarvis, Cynthia D. Chandler, Charles K. Chandler, Gary Harold Tremain, Sara Taylor Luce, Anne Caroline Luce, Gary Grant, Mike Grant, Michael P. Moss, Billy Cleaveland, Brent Cleaveland, Richard Cleaveland, and James B. Hunter be made Honorary Pages of the Senate. Agreed.

Senator Bassett moved to adjourn until 1:00 p.m., Thursday, February 27, 1958.

Senator Knuckles moved that **SB 164**, which had previously been reported without expression by the Committee on Education, be read into the Calendar.

The Chair ruled the motion to adjourn takes precedence over Senator Knuckles' motion.

Senators Clay and Miller demanded a roll call on the motion to adjourn, and the vote was: Yeas, 22—Anggelis, Bassett, Blake, Cornett, C. H. Davis, Mrs. J. H. Davis, Duncan, Fields, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Lucas, Overbey, Richmond, Van Hoose, Warinner, Willis; Nays, 11—Blue, Bonn, Clay, Duffy, Francis, Freeman, McCann, Miller, Reuscher, Ware, Young.

The motion for adjournment carried.

## THURSDAY, FEBRUARY 27, 1958

## FORTY-FIRST LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Edward L. Tullis of the First Methodist Church of Frankfort.

The roll was called. All members present except Senator Byers, who was granted leave of absence on motion of Senator Bassett.

The reading of the Journal for Wednesday, February 26, 1958, dispensed with and the same approved on motion of Senator McCann.

### House Message

Announcing passage of **HB 29, HB 76, HB 96, HB 133, HB 149, HB 270, HB 283, HB 284, HR 36, HR 41, HR 77, HR 81.** Ordered that said bills and resolutions be referred.

### Communications

The Clerk of the Senate read a communication from Dr. Harold McPheeters inviting the members of the Senate to visit Eastern State Hospital, Lexington, Kentucky at any date suitable to the members of the Senate.

Senator Anggelis moved to accept the invitation on Thursday, March 6, 1958. Agreed on voice vote.

### Report on Enrolled Bills

Committee on Enrollment reported that **HB 16, HB 205, HB 25, HB 21** had been examined and found correctly enrolled. Said bills read at length, compared, and signed in open session by the President. Ordered that the original and enrolled copies be delivered to the House.

### Reference of Bills

The President announced referral of the following bills and resolutions:

Education: **SB 262, SB 263, HB 283, HB 284.**
Municipalities: **SB 264, SB 267.**
Judiciary: **SB 265, SB 266, HB 76, HB 270.**
Revenue and Taxation: **SB 268.**
Ways and Means: **SB 269, SB 273, HB 29, HR 41.**
Executive and Legislative Affairs: **SB 270, SR 58, HB 133.**
Banking and Insurance: **SB 271, HB 96.**
Transportation and Highways: **SB 272.**
Suffrage, Elections and Constitutional Amendments: **SB 274, HB 149.**
Claims: **HR 36.**

## Introductions

**SR 59,** by Senator Overbey: A JOINT RESOLUTION authorizing civil action against the Commonwealth of Kentucky, the Department of Revenue and the Department of Public Safety, or any or all of them, in the interest of James Lynn Forsythe.

**SR 60,** by Senator Reuscher: A RESOLUTION extending to the City of Fort Thomas the congratulations of the Senate upon the occasion of the ninety-first anniversary of its establishment.

WHEREAS, the City of Fort Thomas, established as the District of Highlands by act of the General Assembly at the regular session of 1867, will on February 27, 1958, celebrate the ninety-first anniversary of its official existence;

WHEREAS, the said City of Fort Thomas has been closely associated with and a contributor to the colorful and famed history of our Commonwealth of Kentucky;

WHEREAS, the citizens of the said City of Fort Thomas have by laborious endeavor, personal sacrifice, tireless persistence and exemplary co-operation projected the City to a position of prominence in progress within the Commonwealth;

WHEREAS, such progress has been exhibited by the construction and maintenance of beautiful homes, fine schools and stately churches, and,

WHEREAS, such progress in the educational and aesthetic has been paralleled by comparable industrial development.

NOW, THEREFORE,

*Be it resolved by the Senate of the Commonwealth of Kentucky:*

Section 1. That the congratulations of the Senate of the Commonwealth of Kentucky be and are hereby extended to the City of Fort Thomas upon the occasion of the ninety-first anniversary of its official existence.

Section 2. That when the Senate of the Commonwealth of Kentucky adjourns on Thursday, February 27, 1958, it do so in honor of the City of Fort Thomas, Kentucky.

Section 3. That the Clerk of the Senate cause copies of this resolution be sent to the Mayor, each member of the city council, the president of the Board of Education and the superintendent of schools of the City of Fort Thomas.

Senator Reuscher moved the adoption of said resolution. Adopted by voice vote.

**SB 275,** by Senator Warinner: AN ACT relating to teachers.

**SB 276**, by Senator Warinner: AN ACT relating to occupational license taxes, repealing seat tax.

**SB 277**, by Senators Freeman and Ware: AN ACT relating to legal counsel for paupers.

**SB 278**, by Senator Kelly: AN ACT relating to policemen's and firemen's pension funds.

**SB 279**, by Senator Francis: AN ACT relating to motor vehicle sales and providing for licensing of dealers, manufacturers, and factory representatives or distributors, dealing in motor vehicles, providing for regulation of the sale of motor vehicles, filing of forms pertaining thereto and penalties for violation of the Act, and amending certain sections of Chapter 190 of the Kentucky Revised Statutes.

**SB 280**, by Senator Bassett: AN ACT relating to state lands and buildings and the financing thereof.

**SB 281**, by Senator Greene: AN ACT relating to Confederate pensions.

**SB 282**, by Senator Van Hoose: AN ACT relating to rural electric and telephone cooperatives.

**SB 283**, by Senator Blake: AN ACT relating to corporation and utility taxes and amending Section 136.340 of the Kentucky Revised Statute.

## Report of Committees

Committee on Municipalities reported **HB 112, SB 224** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 112:** AN ACT changing the classification of the city of Carlisle in Nicholas County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the city of Carlisle, in Nicholas County, is such as to justify its being classified as a city of the fourth class.

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That the city of Carlisle, in Nicholas County, is transferred from the fifth to the fourth class of cities.

**SB 224:** AN ACT relating to city clerks.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 85.260 of the Kentucky Revised Statutes is amended to read as follows:

(1) The qualified voters of the city shall elect a city clerk for a term which shall expire on the same date as the term of the mayor serving in that office at the effective date of this Act. Thereafter, the clerk shall be elected for a term of four years and he shall enter upon the discharge of his duties on the first Monday in December next after his election and hold office until his successor is elected and qualifies.

(2) No person shall be eligible to the office of city clerk unless, at the time of his election, he is at least twenty-one years of age, a resident in and qualified voter of the city and qualified to keep the records of the office.

(3) The city clerk may, in writing signed by him, appoint a deputy. The deputy shall have all the powers of the city clerk, and the city clerk shall be responsible for the acts and omissions of the deputy. The clerk may remove the deputy at any time.

Committee on Transportation and Highways reported **SB 109** with committee amendments attached thereto, **SB 123**, **SB 71** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 109:** AN ACT relating to littering.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 433.750 of the Kentucky Revised Statutes is amended to read as follows:

Any person who picks, pulls, digs, tears up, cuts, breaks, burns or otherwise damages any tree, shrub, flower, vine, bush or turf on the right of way of any state highway or county road or upon any land set aside dedicated or maintained by this state as a public park or as a refuge or sanctuary for wild animals, birds or fish, or deposits, throws or leaves any trash, debris, or litter upon any such public highway or public land, without having first obtained the permission in writing of the engineer having charge of the maintenance of the highway, or the superintendent or custodian of the park, refuge or sanctuary shall be fined not less than fifty dollars nor more than five hundred dollars.

**SB 123:** AN ACT relating to motor vehicles.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 189.150 of the Kentucky Revised Statutes is amended to read as follows:

(1) No vehicle of any kind shall be operated upon any highway, street or right-of-way, unless it is so constructed and loaded as to prevent its contents from escaping.

(2) No vehicle hauling bulk cargo shall be operated upon any highway, street or right-of-way with any of its cargo above the level

of the top of the side-racks in the truck, unless such cargo is secured in a manner which will prevent its contents from falling over the top of the racks under any operating conditions.

**SB 71:** AN ACT relating to registration of motor vehicles.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 186.190 (5) is amended to read as follows:

It shall be the duty of the purchaser, or a licensed dealer on his behalf, to record the endorsed registration receipt of the original owner with the County Clerk of the County of the purchaser's residence, or in which the vehicle is to be principally operated, together with a copy of the Bill of Sale and to pay a transfer fee of $1.00. The Clerk shall thereupon issue a new registration receipt bearing the same data and information as required on the original receipt, except the change in name and address. For his services hereunder the purchaser shall pay to the Clerk a fee of $1.00.

Committee on Executive and Legislative Affairs reported **SR 50, SR 56, SB 244, SB 255, HB 83** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SR 50:** A JOINT RESOLUTION providing for an investigation and study, by the Legislative Research Commission in cooperation with the Kentucky Bankers Association, the American Bankers Association, and interested state agencies, of the Model State Banking Code prepared by the American Bankers Association, with particular reference to its effect on existing Kentucky law.

WHEREAS, the proposed Model State Banking Code, as promulgated by the American Bankers Association, is a comprehensive revision and modernization of the field of banking law; and

WHEREAS, several states are studying the effects on their existing banking law the Model State Banking Code would have if enacted, and the desirability of enacting the Code into law; and

WHEREAS, an opportunity should be given to interested groups and citizens as well as to members of the banking community to express their opinions, either in support of or in opposition to the Model State Banking Code;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Legislative Research Commission is authorized and directed to make an investigation and study of the proposed Model State Banking Code, to determine its effect on existing Kentucky law, and to collect such information concerning the Code as will enable the General Assembly to be advised fully of the factors bearing on the advisability and desirability of enacting the Code into law.

Section 2. That for the purposes of this study the Legislative Research Commission is authorized to create an advisory committee, whose members shall be composed of bankers, representatives of other interested groups, and public-minded citizens, to advise and give counsel to the Legislative Research Commission.

Section 3. That the Legislative Research Commission is authorized to cooperate with the Kentucky Bankers Association and the American Bankers Association.

Section 4. That the Department of Banking, the Department of Finance, the State Treasurer, and such other state agencies as the Legislative Research Commission may designate, are directed to cooperate to the fullest extent with the Legislative Research Commission in the preparation of the report.

Section 5. That the Legislative Research Commission shall include its findings in a report to the General Assembly of the Commonwealth of Kentucky, such report to be submitted to the 1960 Regular Session.

Section 6. That there is appropriated to the Legislative Research Commission out of the General Expenditure Fund in the State Treasury, the sum of $5,000 for the 1958, 1960 biennium, to carry out the purposes of this Joint Resolution.

**SR 56:** A JOINT RESOLUTION providing for a study of metropolitan governments in the Commonwealth of Kentucky.

WHEREAS, the rise of metropolitan areas has become one of the most significant and spectacular population trends in the United States and it has led to a major, largely unsolved problem of government; and

WHEREAS, the United States Bureau of the Census in 1950, has defined a "standard metropolitan area" to consist, in general, of at least one central city of not less than 50,000 population and the entire county in which it is located, including in addition, other entire counties that are contiguous to the first county which possess extensive economic and social contacts with the central county; and

WHEREAS, there are at present five metropolitan areas entirely or partly within the Commonwealth of Kentucky, and continued rapid increases in population have been occurring in metropolitan areas in general; and

WHEREAS, the metropolitan problem has become more acute in a setting of continuing growth of metropolitan areas in number, population, territorial size and governmental complexity, and the persistence of the metropolitan trend indicates that the less populous metropolitan areas, and even embryonic ones, may need to make changes soon to avoid comparable conditions; and

WHEREAS, one basis of the problem is the absence of general local government organization broad enough to cope with metropolitan matters; and

WHEREAS, there is a lack of area-wide governmental jurisdictions to provide and finance services, to plan and regulate, and to facilitate adequate accountability to the metropolitan public for their actions; and

WHEREAS, the metropolitan problem thus is in fact a series of major problems and a study of the question is desirable.

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Legislative Research Commission is authorized and directed to make an investigation and study of the problems connected with metropolitan areas, with the view of determining generally the advisability of amending the Constitution of the Commonwealth of Kentucky in order to provide for the establishing of a form of "metropolitan government."

Section 2. That for the purposes of this study the Chairman of the Legislative Research Commission is authorized to appoint an advisory committee whose members shall be persons having practical experience in metropolitan government, representatives of interested groups, and public-minded citizens, to advise and give counsel to the Legislative Research Commission.

Section 3. That the Legislative Research Commission is authorized to cooperate with representatives of metropolitan Chambers of Commerce, the Kentucky Municipal League, labor representatives, and other groups.

Section 4. That the Department of Economic Development, the Department of Finance, the Department of Highways, and such other state agencies as the Legislative Research Commission may designate, are directed to cooperate to the fullest extent with the Legislative Research Commisison in the preparation of the report.

Section 5. That the Legislative Research Commission shall include its findings in a report to the General Assembly of the Commonwealth of Kentucky, such report to be submitted to the 1960 Regular Session.

Section 6. That there is appropriated to the Legislative Research Commission out of the General Expenditure Fund in the State Treasury, the sum of $10,000 for the 1958-1960 biennium, to carry out the purposes of this Joint Resolution.

**SB 244:** AN ACT relating to the acquisition, construction, maintenance, extension, and improvement of public projects; defining the scope of public projects.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 58.010 of the Kentucky Revised Statutes is amended to read as follows:

As used in KRS 58.010 to 58.140, unless the context requires otherwise:

(1) "Public Project" means any lands, buildings, or structures, works or facilities suitable for and intended for use as public property for public purposes or suitable for and intended for use in the promotion of the public health, public welfare or the conservation of natural resources, including the planning of any such lands, buildings, structures, works or facilities, and shall also include existing lands, buildings, structures, works and facilities, as well as improvements or additions to any such lands, buildings, structures, works or facilities.

(2) "Public Project" as defined herein shall include projects intended for use as public property for public purposes by another governmental agency, including the United States Government, other than the governmental agency acquiring the land or constructing the building, structure or facility.

(3) "Governmental Agency" means the Commonwealth of Kentucky as such acting by or through any department, instrumentality or agency thereof, or any county, city, agency or instrumentality or other political subdivision of the Commonwealth, or agency, or instrumentality thereof.

**SB 255:** AN ACT relating to gifts of securities and money to minors and making uniform the law with reference thereto.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. As used in this Act, unless the context otherwise requires:

(1) "Adult" is a person who has attained the age of twenty-one years;

(2) "Bank" includes every corporation authorized by law to do a banking business; (KRS 287.010 (a));

(3) "Broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also in-

cludes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business;

(4) "Court" means the chancery division of the circuit court;

(5) "The custodial property" includes:

(a) all securities and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this Act;

(b) the income from the custodial property; and

(c) the proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment or other disposition of such securities, money and income;

(6) "Custodian" is a person so designated in a manner prescribed in this Act;

(7) "Guardian" of a minor includes the general guardian, guardian, tutor or curator of his property, estate or person;

(8) "Issuer" is a person who places or authorizes the placing of his name on a security, other than as a transfer agent, to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person;

(9) "Legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate;

(10) "Member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption;

(11) "Minor" is a person who has not attained the age of twenty-one years;

(12) "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer;

(13) "Transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities; and

(14) "Trust company" includes every corporation authorized to do a trust business.

Section 2. (1) An adult person may, during his lifetime, make a gift of a security or money to a person who is a minor on the date of the gift:

(a) if the subject of the gift is a security in registered form, by registering it in the name of the donor, another adult person, an adult member of the minor's family, a guardian of the minor, or a trust company, followed, in substance, by the words: "as custodian for ------ (name of minor)------ under the Uniform Gifts to Minors Act";

(b) if the subject of the gift is a security not in registered form by delivering it to an adult person other than the donor, an adult member, other than the donor, of the minor's family, a guardian of the minor, or a trust company, accompanied by a statement of gift in the following form, in substance, signed by the donor and the person designated as custodian:

"GIFT UNDER THE UNIFORM GIFTS TO MINORS ACT

I, ------(name of donor) ------, hereby deliver to ------(name of custodian)------, as custodian for ------(name of minor)------ under the Uniform Gifts to Minors Act, the following security (ies): (insert an appropriate description of the security or securities delivered sufficient to identify it or them)

------(signature of donor)------

------(name of custodian)------ hereby acknowledges receipt of the above described security (ies) as custodian for the above minor under the Uniform Gifts to Minors Act. Dated: --------

------(signature of custodian)------";

(c) if the subject of the gift is money, by paying or delivering it to a broker or a bank for credit to an account in the name of the donor, another adult person, an adult member of the minor's family, a guardian of the minor, or a bank with trust powers, followed, in substance, by the words: "as custodian for ------(name of minor)------ under the Uniform Gifts to Minors Act";

(2) Any gift made in a manner prescribed in subsection (1) may be made to only one minor and only one person may be the custodian;

(3) A donor who makes a gift to a minor in a manner prescribed in subsection (1) shall promptly do all things within his power to put the subject of the gift in the possession and control of the custodian, but neither the donor's failure to comply with this subsection, nor his designation of an ineligible person as custodian, nor renunciation by the person designated as custodian affects the consummation of the gift.

Section 3. (1) A gift made in a manner prescribed in this Act is irrevocable and conveys to the minor indefeasibly vested legal title to the security or money given, but no guardian of the minor has any right, power, duty or authority with respect to the custodial property except as provided in this Act;

(2) By making a gift in a manner prescribed in this Act, the donor incorporates in his gift all the provisions of this Act and grants to the custodian, and to any issuer, transfer agent, bank, broker or third person dealing with a person designated as custodian, the respective powers, rights and immunities provided in this Act.

Section 4. (1) The custodian shall collect, hold, manage, invest and reinvest the custodial property.

(2) The custodian shall pay over to the minor for expenditure by him, or expend for the minor's benefit, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his discretion deems suitable and proper, with or without court order, with or without regard to the duty of himself or of any other person to support the minor or his ability to do so, and with or without regard to any other income or property of the minor which may be applicable or available for any such purpose.

(3) The court, on the petition of a parent or guardian of the minor or of the minor, if he has attained the age of fourteen years, may order the custodian to pay over to the minor for expenditure by him or to expend so much of or all the custodial property as is necessary for the minor's support, maintenance or education.

(4) To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on his attaining the age of twenty-one or, if the minor dies before attaining the age of twenty-one years, he shall thereupon deliver or pay it over to the estate of the minor.

(5) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this Act.

(6) The custodian may sell, exchange, convert or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote in person or by general or limited proxy a security which is custodial property. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer, a security which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian.

(7) The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed, in substance, by the words: "as custodian for ______(name of minor) ______ under the Uniform Gifts to Minors Act." The custodian shall hold all money which is custodial property in an account with a broker or in a bank in the name of the custodian, followed, in substance, by the words: "as custodian for ______(name of minor)______ under the Uniform Gifts to Minors Act". The custodian shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

(8) The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if he has attained the age of fourteen years.

(9) A custodian has and holds as powers in trust with respect to the custodial property, in addition to the rights and powers provided in this Act, all the rights and powers which a guardian has with respect to property not held as custodial property.

Section 5. (1) A custodian is entitled to reimbursement from the custodial property for his reasonable expenses incurred in the performance of his duties.

(2) A custodian may act without compensation for his services.

(3) Unless he is a donor, a custodian may receive from the custodial property reasonable compensation for his services as determined by KRS 386.180.

(4) Except as otherwise provided in this Act, a custodian shall not be required to give a bond for the performance of his duties.

(5) A custodian not compensated for his services is not liable for losses to the custodial property unless they result from his bad faith, intentional wrongdoing or gross negligence or from his failure to maintain the standard of prudence in investing the custodial property provided in this Act.

Section 6. No issuer, transfer agent, bank, broker or other person acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated by the purported donor or purporting to act as a custodian has been duly designated or whether any purchase, sale or transfer to or by or any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by this Act, or is obliged to inquire into the validity or propriety under this Act of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him.

Section 7. (1) Only an adult member of the minor's family, a guardian of the minor or a trust company is eligible to become successor custodian. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this Act.

(2) A custodian, other than the donor, may resign and designate his successor by:

(a) executing an instrument of resignation designating the successor custodian; and

(b) causing each security which is custodial property and in registered form to be registered in the name of the successor custodian followed, in substance, by the words: "as custodian for ------(name of minor)------ under the Uniform Gifts to Minors Act"; and

(c) delivering to the successor custodian the instrument of resignation, each security registered in the name of the successor custodian and all other custodial property, together with any additional instruments required for the transfer thereof.

(3) A custodian, whether or not a donor, may petition the court for permission to resign and for the designation of a successor custodian.

(4) If the person designated as custodian is not eligible, renounces or dies before the minor attains the age of twenty-one years, the guardian of the minor shall be successor custodian. If the minor has no guardian, a donor, his legal representative, the legal representative of the custodian, an adult member of the minor's family, or the minor, if he has attained the age of fourteen years, may petition the court for the designation of a successor custodian.

(5) A donor, the legal representative of a donor, an adult member of the minor's family, a guardian of the minor or the minor, if he has attained the age of fourteen years, may petition the court that, for cause shown in the petition, the custodian be removed and a successor custodian be designated or, in the alternative, that the custodian be required to give bond for the performance of his duties.

(6) Upon the filing of a petition as provided in this Section, the court shall grant an order to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interests of the minor.

Section 8. (1) The minor, if he has attained the age of fourteen years, or the legal representative of the minor, an adult member of the minor's family, or a donor or his legal representative may petition the court for an accounting by the custodian or his legal representative.

(2) The court, in a proceeding under this Act or otherwise, may require or permit the custodian or his legal representative to account and, if the custodian is removed, shall so require and order delivery

of all custodial property to the successor custodian and the execution of all instruments required for the transfer thereof.

Section 9. (1) This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(2) This Act shall not be construed as providing an exclusive method for making gifts to minors.

Section 10. This Act may be cited as the "Uniform Gifts to Minors Act."

Section 11. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 12. This Act shall take effect July 1, 1958.

**HB 83:** AN ACT relating to highway construction.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 176.120 of the Kentucky Revised Statutes is amended to read as follows:

The Department of Highways may cause any road construction or reconstruction work to be done by employes of the Department instead of through contractors when, in the opinion of the commissioner as expressed in an official order.

(a) No satisfactory bid is received for the construction or reconstruction of the road after all necessary steps have been taken to obtain bids for such work; or

(b) Emergency construction or reconstruction is necessary; or

(c) Construction or reconstruction of access roads would serve as an inducement to industrial location or substantial expansion; or

(d) The work project is within the boundaries of property owned by other governmental agencies; or

(e) The estimated cost of the project is less than $12,000.

Committee on Conservation reported **SB 239** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 239:** AN ACT relating to crude oil purchases.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Any purchaser of crude oil from the producer in the field shall not impound any monies accruing to any interest owner for a period of over sixty days from the date notice is received by it of an adverse claim against any such interest. If no attachment by order of court has been served on said purchaser within said sixty-day period, said purchaser shall make payment to the interest owner affected by said adverse notice pursuant to the existing division order if any. In the event of the failure of the purchaser to pay said monies after the sixty day period where no legal attachment exists it shall be liable for interest on said monies at the rate of three percent. This section shall not apply where no division order set forth the ownership existing, nor where the property rights are in litigation in order to settle an estate,

Committee on Judiciary reported **SB 243, HB 270** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 243:** AN ACT relating to the Court of Appeals.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 21.080 of the Kentucky Revised Statutes is amended to read as follows:

Where the amount in controversy is as much as two hundred dollars, exclusive of interest and costs, and less than twenty-five hundred dollars, application for appeal may be made to the Court of Appeals. The court shall promulgate rules governing the form of the application and the procedure to be followed after the application has been filed, which rules shall be designed to afford more simplified procedure for determination of appeals in cases of this class. The tax on appeals shall be paid only in cases in which an appeal is allowed.

**HB 270:** AN ACT relating to compensation of circuit judges, making an appropriation therefor.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The compensation of circuit judges, payable out of the State Treasury, shall be eight thousand four hundred dollars per annum for each judge.

Section 2. Section 64.500 of the Kentucky Revised Statutes is amended to read as follows:

The fiscal court of any one or more counties located in any judicial district may allow and pay to the judge or judges of the circuit court of the district such annual sum as will reimburse the judge or judges for such incidental and office expenses incurred in the discharging the duties of the office, including, but not limited to, office rental, lights and heat, automobile expenses not reimbursable under KRS 64.505, stenographic services, postage, telephone service, supplies, stationery, books and periodicals, as the fiscal court deems just and proper. Two or more counties in the same district may prorate or divide any allowance for such expenses.

Section 3. Nothing contained in this Act shall be construed to repeal or modify the provisions of KRS 64.505 or the provisions of KRS 24.270.

Section 4. In addition to other appropriations made, to the Judiciary, there is hereby appropriated out of the General Fund to the Judiciary for salaries and expenses of circuit judges the sum of $52,200 for each of the fiscal years 1958-1959, and 1959-1960; and to the Judiciary for the circuit judges retirement system the sum of $1,044 for each of the fiscal years 1958-1959 and 1959-1960.

### Calendar

**SB 204, SB 236, SB 208, HB 143, SB 242, SB 222, SB 128, SB 177, HB 12, SB 76, HB 35, SB 14, SB 241, SR 55, SB 227, SR 9, SB 238, SB 237, SR 53, SB 129** were taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that they be read by title only. Agreed by a majority of the members elected. Ordered placed in Orders of the Day.

### Introductions

Senator Melton moved to suspend the Rules for the purpose of introducing a bill. Agreed.

**SB 284**, by Senator Melton: AN ACT relating to compensation of county purgation officers.

### Motions

Senator Knuckles moved that **SB 164**, which was reported by the Committee on Education without expression, be read into the Calendar, the report of the Committee to the contrary notwithstanding. The Chair ruled the motion out of order for lack of second to the motion.

### Orders of the Day

**SB 104** taken from the Orders of the Day. Senator Anggelis moved that the consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 189** taken from the Orders of the Day and ordered read at length for the third time. Senator Anggelis moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Anggelis moved the Previous Question on **SB 189**. Agreed.

On roll call, the vote was: Yeas, 37—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 189** was passed and the title agreed to.

Senator Bassett moved that when the Senate adjourns today, it adjourn until 10:00 a.m., Friday, February 28, 1958. Agreed by voice vote.

**SB 181** taken from the Orders of the Day and ordered read at length for the third time. Senator Kidwell moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Kidwell moved the Previous Question on **SB 181.** Agreed.

On roll call, the vote was: Yeas, 37—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 181** was passed and the title agreed to.

**SB 191** taken from the Orders of the Day and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Bassett moved the Previous Question on **SB 191.** Agreed.

On roll call, the vote was: Yeas, 35—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Young; Nays, 0.

**SB 191** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 166** taken from the Orders of the Day and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Bassett moved the Previous Question on **SB 166.** Agreed.

On roll call, the vote was: Yeas, 37—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 166** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 192** taken from the Orders of the Day and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Bassett moved the Previous Question on **SB 192.** Agreed.

On roll call, the vote was: Yeas, 35—Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis, Young; Nays, 0.

**SB 192** was passed and the title agreed to.

**SB 169** taken from the Orders of the Day and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Overbey moved the Previous Question on **SB 169.** Agreed.

On roll call, the vote was: Yeas, 35—Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis; Nays, 0.

**SB 169** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SR 36** taken from the Orders of the Day and ordered read at length for the third time. Senator Overbey moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Overbey moved the Previous Question on **SR 36.** Agreed.

On roll call, the vote was: Yeas, 34—Anggelis, Bassett, Blake, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis, Young; Nays, 0.

**SR 36** was passed and the title agreed to.

Senator Overbey moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

## Motions

Senator Hamilton moved to suspend the Rules for the purpose of appointing Honorary Pages in the Senate. Agreed.

Senator Hamilton moved that Jenny Lou Heskamp, Rebecka Reade Heskamp, Sarah Theresa Davis, Virginia Lee Davis, Catherine Lynn Davis be made Honorary Pages of the Senate. Agreed.

Senator Cornett moved that Curtis Bernard Rezek be made an Honorary Page of the Senate. Agreed.

Senator Howell moved that Ralph Steven Gibson, Guy B. Meade, Roger C. Meade be made Honorary Pages of the Senate. Agreed.

Senator Robinson moved that Opal Ann Lucas be made an Honorary Page of the Senate. Agreed.

### Orders of the Day

**SB 88** taken from the Orders of the Day and ordered read at length for the third time. Senator Fields moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Fields moved the Previous Question on **SB 88.** Agreed.

On roll call, the vote was: Yeas, 31—Anggelis, Bassett, Blake, Blue, Bonn, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis; Nays, 1—Kidwell.

**SB 88** was passed and the title agreed to.

Senator Fields moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SR 40** taken from the Orders of the Day and ordered read at length for the third time. Senator Cornett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Cornett moved the Previous Question on **SR 40.** Agreed.

On roll call, the vote was: Yeas, 29—Anggelis, Bassett, Blake, Bonn, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, Melton, Miller, Overbey, Reuscher, Van Hoose, Ware, Willis, Young; Nays, 0.

**SR 40** was passed and the title agreed to.

**SB 193** taken from the Orders of the Day and ordered read at length for the third time. Senator Clay moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Clay moved the Previous Question on **SB 193.** Agreed.

On roll call, the vote was: Yeas, 27—Anggelis, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Hamilton, Hickerson, Jackson, Johnson, Knuckles, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis; Nays, 4—Bassett, Kidwell, Lucas, Young.

**SB 193** was passed and the title agreed to.

**SB 163** taken from the Orders of the Day and Ordered read at length for the third time. Senator Knuckles moved that it be read by title and put to passage. Agreed by a majority of the members elected.

Senator Hamilton proposed an amendment to **SB 163.**

Amend printed copy of **SB 163** on page 1, section 1, line 2 by inserting after the word, "disability" the words, "of twenty percent or more."

Senator Hamilton moved the adoption of said amendment. Adopted by voice vote.

Senator Knuckles moved the Previous Question on **SB 163** as amended. Agreed.

On roll call, the vote was: Yeas, 28—Anggelis, Bassett, Blake, Blue, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, Melton, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis; Nays, 0.

**SB 163** was passed and the title agreed to.

**SB 116** taken from the Orders of the Day and ordered read at length for the third time. Senator Duffy moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Duffy moved the Previous Question on **SB 116.** Agreed.

On roll call, the vote was: Yeas, 33—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis; Nays, 0.

**SB 116** was passed and the title agreed to.

Senator Duffy moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 207** taken from the Orders of the Day. Senator Johnson moved that consideration of said bill be deferred and that it retain its place in Orders of the Day.

**SB 195** taken from the Orders of the Day and ordered read at length for the third time. Senator Jackson moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Jackson moved the adoption of the Committee Amendment to **SB 195.**

Amend printed copy of **SB 195** following:

Section 2. Whereas the qualifications for the office of city attorney in cities of the fourth class have proved so restrictive that there is a shortage of applicants for the position, an emergency is declared to exist, and this Act shall become effective upon its approval by the Governor.

Adopted by voice vote.

Senator Jackson moved the Previous Question on **SB 195** as amended. Agreed.

On roll call, the vote was: Yeas, 30—Anggelis, Bassett, Blake, Blue, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Willis; Nays, 1—Bonn.

**SB 195** was passed and the title agreed to.

### Introduction of Guests

The President asked permission of the Senate to introduce Don Mills of Clinton, Kentucky, who is now attending the University of Kentucky. Mr. Mills has recently won the Rotary Fellowship from Kentucky 1958-59 to study journalism and public affairs at the University of Edinburgh in Scotland.

### Introductions

Senator Kidwell moved to suspend the Rules for the purpose of introducing a resolution. Agreed.

**SR 61**, by Senator Kidwell: A JOINT RESOLUTION authorizing reimbursement to Homer A. Spillman for funds expended by him for food and maintenance of prisoners assigned as a maintenance detail under his direct supervision, and making an appropriation therefor.

### Orders of the Day

**SB 65** taken from the Orders of the Day and ordered read at length for the third time. Senator Hamilton moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Hamilton moved the Previous Question on **SB 65.** Agreed.

On roll call, the vote was: Yeas, 33—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Ware, Warinner, Willis, Young; Nays, 0.

**SB 65** was passed and the title agreed to.

**SB 223** taken from the Orders of the Day. Senator Howell moved that consideration of said bill be deferred and that it retain its place in Orders of the Day.

**SB 220** taken from the Orders of the Day. Senator Overbey moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**HB 157** taken from the Orders of the Day and ordered read at length for the third time. Senator Robinson moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Robinson moved the Previous Question on **HB 157.** Agreed.

On roll call, the vote was: Yeas, 32—Anggelis, Bassett, Blake, Blue, Bonn, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis; Nays, 0.

**HB 157** was passed and the title agreed to.

Senator Robinson moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 205** taken from the Orders of the Day. Senator Hamilton moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**HB 90** taken from the Orders of the Day and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Bassett moved the Previous Question on **HB 90.** Agreed.

On roll call, the vote was: Yeas, 36—Anggelis, Bassett, Blake, Blue, Bonn, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson,, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**HB 90** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 162** taken from the Orders of the Day. Senator Bassett moved that consideration of said bill be deferred and that it retain its place in Orders of the Day.

**SB 54** taken from the Orders of the Day. Senator Bassett moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 153** taken from the Orders of the Day and ordered read at length for the third time. Senator Robinson moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Robinson moved the Committee Amendment to **SB 153** be adopted.

Amend printed copy of **SB 153** on page 2, section 2, line 16 by striking out the word "twenty-five" after the word "paid" and inserting in lieu thereof the word "twenty"

Adopted by voice vote.

Senator Robinson moved the Previous Question on **SB 153** as amended. Agreed.

On roll call, the vote was: Yeas, 31—Anggelis, Bassett, Blake, Blue Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis; Nays, 1—Bonn.

**SB 153** was passed and the title agreed to.

**SB 120** taken from the Orders of the Day and ordered read at length for the third time. Senator Francis moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Francis moved the Previous Question on **SB 120.** Agreed.

On roll call, the vote was: Yeas, 33—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 120** was passed and the title agreed to.

Senator Francis moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 80** taken from the Orders of the Day and ordered read at length for the third time. Senator Mrs. J. Harry Davis moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Mrs. J. Harry Davis moved the Previous Question on **SB 80.** Agreed.

On roll call, the vote was: Yeas, 35—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 80** was passed and the title agreed to.

Senator Mrs. J. Harry Davis moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 209** taken from the Orders of the Day and ordered read at length for the third time. Senator Howard moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Howard moved the Previous Question on **SB 209.** Agreed.

On roll call, the vote was: Yeas, 34—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis; Nays, 0.

**SB 209** was passed and the title agreed to.

Senator Howard moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 149** taken from the Orders of the Day and ordered read at length for the third time. Senator Greene moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Greene moved the Previous Question on **SB 149.** Agreed.

On roll call, the vote was: Yeas, 33—Anggelis, Bassett, Blake, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis; Nays, 1—McCann.

**SB 149** was passed and the title agreed to.

## Report of Committees

Senator Overbey moved to suspend the Rules for the purpose of making a Committee Report. Agreed.

Committee on Judiciary reported **HB 223** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 223:** AN ACT relating to venue of civil actions.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 452.460 of the Kentucky Revised Statutes is amended to read as follows:

(1) Every other action for an injury to the person or property of the plaintiff, and every action for an injury to the character of the plaintiff, against a defendant residing in this state, must be brought in the county in which the defendant resides, or in which the injury is done. Provided, that in actions for libel the action shall be brought in the county in which the plaintiff resides or in the county in which the newspaper or publication is printed or published, or in the county in which the transaction or act or declaration to which the publication relates is stated, or purported to have been done or taken place.

(2) If an injury occurs on a river or stream dividing two or more counties, any county bounding the river at the point the injury occurred may be considered the county in which the injury is done for purposes of bringing the action.

## Introductions

Senator Overbey moved to suspend the Rules for the purpose of introducing bills. Agreed.

**SB 285**, by Senator Overbey: AN ACT relating to motor carriers, amending subsection (1) of section 281.605 of the Kentucky Revised Statutes.

**SB 286**, by Senator Bassett: AN ACT relating to interstate water pollution control.

**SB 287**, by Senator Bassett: AN ACT relating to the criminal code of practice.

**SB 288**, by Senator Clay: AN ACT proposing an amendment to the Constitution of Kentucky relating to the organization and government of cities of the first and second class.

**SB 289**, by Senators Clay, Van Hoose, Johnson, Robinson: AN ACT relating to the Kentucky Agricultural Experiment Stations.

Senator Bassett moved adjournment until 10:00 a.m., Friday, February 28, 1958. Agreed.

## FRIDAY, FEBRUARY 28, 1958

## FORTY-SECOND LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Edward L. Tullis of the First Methodist Church of Frankfort.

The roll was called. All members present except Blake, Blue, and Overbey, who were granted leave of absence on motion of Senator Bassett.

The reading of the Journal for Thursday, February 27, 1958, dispensed with and the same approved on motion of Senator McCann.

### Motions

Senator Mrs. J. Harry Davis moved that **SB 70** be recommitted. Agreed.

Senator Bassett moved that **HB 93** be made a special order as soon as the Orders of the Day were to be considered. Agreed.

Senator Clay, seconded by Senator Richmond, moved that **HR 11** be recommitted to the Committee on Claims. Motion lost on voice vote.

Senator Van Hoose moved that Anne Mason Ford be made an Honorary Page of the Senate. Agreed.

Senator Hamilton moved that Don Walter Jeffers, Larry Smith Jeffers, David Floyd White, John Frederick White, Jennifer Elysse Brauer, Anthony Marsh Moore, Brian Lester Moore, James Allen Hipps, Perry Mac Bentley, Freddie Lee, Kathy Jean Ramsey, Nancy Brook Brundage, Kim Harp, Elizabeth Cay Gayhart, Anne M. Herndon, Elizabeth F. Herndon be made Honorary Pages of the Senate. Agreed.

Senator Greene moved that Susan Denise Lane be made an Honorary Page of the Senate. Agreed.

### Introductions

**SB 290**, by Senator Bassett: AN ACT relating to the Legislative Research Commission.

**SB 291**, by Senator Bassett: AN ACT relating to the publication of administrative regulations.

**SB 292**, by Senator Kelly: AN ACT relating to Workmen's Compensation.

### Report of Committees

Committee on Conservation reported **SB 217** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 217:** AN ACT relating to water districts.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 74.110 of the Kentucky Revised Statutes is amended to read as follows:

The territorial limits of an established water district may be enlarged or diminished in the following way:

(1) The commission may file a petition with the county court to strike off or annex territory to the district. Any owner or owners of territory within the district may file a petition with the county court for removal of his property from the district provided the property has been in the district at least one year. Petitions shall describe the territory involved and set out the reasons for such request. Notice of filing shall be given as required by this chapter. A copy of an owner's petition shall be mailed to the commission. Objections or exceptions may be filed by any interested person.

(2) After thirty days from date of filing the petitions, the court shall set the matter for hearing. If the court finds the relief sought in a commission's petition is reasonably necessary it shall enter an order annexing or striking off the proposed territory, otherwise the petition may be dismissed. In considering an owner's petition, the court shall consider the present ability of the district to adequately serve the territory proposed to be removed. If the court determines that the district, with existing facilities, cannot adequately serve the territory described, the territory shall be stricken from the district. Any party of record may appeal to the circuit court within fifteen days from date of entry of judgment, for a trial de novo, and to the Court of Appeals as required by law.

(3) If any of the territory stricken off has been assessed to pay the costs of any improvements, the commission shall strike the assessments from the assessment roll and refund to the respective owners any assessments collected on the land which has been stricken off.

(4) If a deficit is incurred by striking off part of a water district, or by striking assessments from the assessment roll, so that the assessment roll is insufficient to pay the bonded indebtedness of the district, the deficit shall be paid out of the general fund of the district, realized from all other resources in the district.

Committee on Ways and Means reported **SB 273** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 273:** AN ACT relating to newspaper publications for the purpose of legal notice or advertisement; including provisions to govern publications required by law to be made, and requiring certain matters to be published.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

## DEFINITIONS

Sec. 1. As used in this Act:

(1) "Publication area" means the city, county, district or other local area for which an advertisement is required by law to be made. An advertisement shall be deemed to be for a particular city, county, district or other local area if it concerns an official activity of such city, county, district or other area or of any governing body, board, commission, officer, agency or court thereof, or if the matter of which advertisement is made concerns particularly the people of such city, county, district or other area.

(2) "Advertisement" means any matter required by law to be published, including evidences of official action such as ordinances, rules, regulations, financial reports or statements, audits, journals, orders, and certificates, as well as customary legal notices and advertisements for bids or of sales.

## QUALIFICATIONS OF NEWSPAPERS

Sec. 2. (1) Except as provided in subsection (2) of this section, whenever an advertisement for a publication area is required by law to be published in a newspaper, the publication must be made in a newspaper that meets the following requirements:

(a) It must be published in the publication area. A newspaper shall be deemed to be published in the area if it maintains a known office in the area for the purpose of gathering news and soliciting advertisements and other general business of newspaper publication, and has a second-class mailing permit issued for that office. A newspaper printed outside of Kentucky shall not be eligible to publish advertisements for any county or publication area within the county if there is a newspaper printed in the county that has a substantial general circulation throughout the county and that otherwise meets the requirements of this section.

(b) It must be of regular issue and have the largest bona fide circulation in the publication area. A newspaper shall be deemed to be of regular issue if is published regularly, as frequently as once a week, for at least 50 weeks during the calendar year as prescribed by its mailing permit, and has been so published in the area for the immediately preceding one-year period. A newspaper shall be deemed to be of bona fide circulation in the publication area if it is circulated generally in the area, and maintains a definite price or consideration not less than 50 percent of its published price, and is paid for by not less than 50 percent of those to whom distribution is made.

(c) It must bear a title or name, consist of not less than four pages without a cover, and be of a type to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matter, advertisements, and other notices. The news content must be at least 25 percent of the total column space in more than one-half of its issues during any twelve-month period.

(2) If, in the case of a publication area smaller than the county in which it is located, there is no newspaper published in the area, the publication shall be made in a newspaper published in the county that is qualified under this section to publish advertisements for the county. If in any county there is no newspaper meeting the requirements of this section for publishing advertisements for such county, any advertisements required to be published for such county or for any publication area within the county shall be published in a newspaper of the largest bona fide circulation in that county, published in and qualified to publish advertisements for an adjoining county in Kentucky. This subsection is intended to supersede any statute which provides or contemplates that newspaper publication may be dispensed with if there is no newspaper printed or published or of general circulation in the particular publication area.

(3) If a publication area consists of a district which extends into more than one county, the part of the district in each county shall be considered to be a separate publication area for the purposes of this section, and an advertisement for each such separate publication area shall be published in a newspaper qualified under this section to publish advertisements for such area.

## TIMES AND PERIODS OF PUBLICATION

Sec. 3. (1) Notwithstanding any provision of existing law to the contrary, the times and periods of publications of advertisements required by law to be made in a newspaper shall be as follows:

(a) When an advertisement is of a completed act, such as an ordinance, resolution, regulation, order, rule, report, statement, or certificate, and the purpose of the publication is not to inform the public or the members of any class of persons that they may or shall do an act or exercise a right within a designated period or upon or by a designated date, the advertisement shall be published one time only.

(b) When an advertisement is for the purpose of informing the public or the members of any class of persons that on or before a certain day they may or shall file a petition or exceptions or a remonstrance or protest or objection, or resist the granting of an application or petition, or present or file a claim, or submit a bid, or when the advertisement is of a sale, the advertisement shall be published once a week for three successive weeks.

(c) Any advertisement not coming within the scope of paragraph (a) or (b) of this subsection, such as one for the purpose of informing the public or the members of any class of persons of the holding of an election, or of a public hearing, or of an examination, or of an opportunity for inspection, or of the due date of a tax or special assessment, shall be published once a week for two successive weeks.

(d) Whenever any advertisement is required by this section to be published once a week for three successive weeks, or once a week for two successive weeks, the publication shall be so made that the final publication will appear not later than two days before the day upon which the advertised event will occur or upon or by which the advertisement contemplates that an act may or shall be done, and not sooner than some day during the week preceding the week in which falls the day of such event or act to be done; provided, however, that where any statute now provides that the day for an act to be done is to be determined by computing time from the day of publication of any advertisement, the officer responsible for having the publication made shall select a day for the act to be done and shall state the same in the advertisement, and the successive weekly publications shall precede that day, unless the statute allows for doing the act a prescribed period of more than 30 days following the final publication, in which event the publication shall be made forthwith for the number of successive weeks prescribed by this section, and the prescribed period of time following final publication shall be allowed for doing the act, which fact shall be stated in the advertisement.

(2) This section is not intended to supersede or affect any statute providing for notice of the fact that an adversary action in court has been commenced.

## CONTENTS OR FORM OF ADVERTISEMENTS

Sec. 4. (1) Where any statute provides that an act, such as the filing of a remonstrance, exception, protest or the like, may or shall be done within a specified period of time after the enactment of an ordinance, or the filing of a petition or application, and it is provided by the statute that the ordinance or notice of the filing of the petition or application shall be published, the advertisement shall include a statement of the nature of the act that may or shall be done and the date by which it is permitted or required to be done.

(2) Any advertisement of a hearing, meeting or examination shall state the time, place and purpose of the same.

(3) Any advertisement of official action, or proposed official action, or of a petition or application for official action, with respect to which members of the public are allowed time by statute within which to make objections in the form of a remonstrance, exceptions, protest, or the like, shall state the nature of the action taken, proposed or petitioned or applied for (except where the statute requires reproduction in full of the action, proposal, petition or application), the kind of objections that may be made, and the time when and place where the objections are to be filed or submitted.

(4) Any advertisement of an election shall state the time and

purpose of the election, and if the election is upon a public question the advertisement shall state the substance of the question.

(5) Any advertisement for bids or of a sale shall describe what is to be bid for or sold, the time and place of the sale or for the receipt of bids, and any special terms of the sale.

### PERSON RESPONSIBLE FOR PUBLISHING

Sec. 5. When any statute providing for newspaper publication of an advertisement does not designate the person responsible for causing the publication to be made, the responsible person shall be:

(1) Where the advertisement is of the filing of a petition or application, the person by whom the same is filed.

(2) Where the advertisement is of an activity or action of:

(a) An individual public officer, the officer himself.

(b) A city, the city clerk.

(c) A county, the county court clerk.

(d) A district, or a board, commission or agency of a city, county or district, the chief administrative or executive officer or agent thereof.

(e) A court, the clerk thereof.

(f) A state department or agency, the head thereof.

### RATES

Sec. 6. (1) For all newspaper advertising required by law, the publisher is entitled to receive for each insertion, compensation at a rate per linear inch, single column, computed as solid eight-point measure, as follows:

(a) In any newspaper other than a daily, $1.00 per linear inch.

(b) In a daily newspaper, $1.50 per linear inch, except that where the newspaper has an established rate for general advertisers in excess of the above rate, the publisher is entitled to receive compensation at a rate not exceeding that paid by general advertisers for comparable matter.

(2) If an advertisement is set in type larger than eight-point, or is leaded between lines, the rate per linear inch shall be according to the following scale:

| *Point Size* | *Weekly* | *Daily* |
|---|---|---|
| Eight-point, one-point leaded | $0.89 | $1.34 |
| Nine-point solid | 0.89 | 1.34 |
| Eight-point, two-point leaded | 0.80 | 1.20 |
| Ten-point solid | 0.80 | 1.20 |
| Ten-point, two-point leaded | 0.667 | 1.00 |

(3) Whenever by law or by the nature of the matter to be published a display form of advertisement is required, or whenever the person or officer responsible for causing an advertisement to be published determines in his discretion that a display form is practicable

or feasible, and so directs the newspaper, the advertisement shall be published in display form and the newspaper shall be entitled to receive therefor its established display rate.

(4) Whenever it is provided by statute that an advertisement shall be published of the filing of a petition or application seeking official action, the filing shall not be deemed complete unless there is deposited with the petition or application an amount sufficient to pay the cost of publication.

(5) The expense of advertisements in judicial proceedings shall be taxed as costs by the clerk of the court.

### PROOF OF PUBLICATION

Sec. 7. The affidavit of the publisher or proprietor of a newspaper, stating that an advertisement has been published in his newspaper and the times it was published, attached to a copy of the advertisement, constitutes prima facie evidence that the publication was made as stated in the affidavit.

### ADVERTISEMENTS OF STATE AGENCIES

Sec. 8. Any advertisement which a state officer, department or agency is required by law to have published shall, if intended to give state-wide notice, be published in such newspaper or newspapers, to be designated by the Department of Finance, as will provide reasonable state-wide coverage. If the advertisement particularly affects a local area it shall be published, for each county in the area, in a newspaper qualified under Section 2 of this Act to publish advertisements for such county. The latter publication shall be in addition to the former, if the advertisement affects the state at large as well as the local area.

### ALTERNATIVES TO NEWSPAPER PUBLICATION ABOLISHED

Sec. 9. In any case where a statute now gives discretion to a public officer or agency or governmental body as to the method of making an advertisement required by the statute, and in any case where a statute now provides that an advertisement may be made either by posting or by newspaper publication, the advertisement shall be made by newspaper publication in accordance with the provisions of this Act.

### NOTICE WHEN NO NEWSPAPER AVAILABLE

Sec. 10. If no qualified newspaper exists, willing to publish an advertisement required by statute, the advertisement shall be made by posting as provided by the particular statute, or if posting is not specifically provided for, then by such posting as will give reasonable notice.

### OFFICIAL NEWSPAPERS ABOLISHED

Sec. 11. No official newspaper shall be designated by any governmental unit for the publication of advertisements for such unit.

## MATTERS REQUIRED TO BE PUBLISHED
(Sections 12 through 27)

Sec. 12. Excepting officers of a city of the first class, and of a county containing such a city, and of a school district of such a city or county, and excepting officers of a city of the second class that is required by law to publish an annual audit of its financial affairs, every public officer of any school district, city, county, or subdivision or district less than a county, whose duty it is to collect, receive, have the custody, control or disbursement of public funds, and every officer of any board or commission of a city, county or district whose duty it is to collect, receive, have the custody, control or disbursement of funds collected from the public in the form of rates, charges or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held or disbursed by him during the fiscal year just closed, unless he has complied with Section 13 of this Act. The statement shall show the amount of funds collected and received, from what sources received, the amount disbursed, the date of each disbursement, for what purpose expended, and to whom paid, except that only the totals of amounts paid as gross salaries to each individual need be shown. The officer shall procure and include in or attach to the statement as a part thereof a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement. The officer shall, within 60 days after the close of the fiscal year, cause the statement to be published in full in a newspaper qualified under Section 2 of this Act to publish advertisements for the city, county or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county court clerk of the county. Within 30 days after publication the officer shall file with the Auditor of Public Accounts a copy of the newspaper containing the statement.

Sec. 13. Any officer who is subject to the provisions of Section 12 of this Act may elect to prepare and publish monthly or quarterly statements, in lieu of the annual statements required by Section 12. All of the provisions of Section 12 shall be applicable to such a monthly or quarterly statement except that (1) the statement shall cover only the preceding month or quarter, as the case may be, and (2) the publication shall be made within 30 days after the end of the month or quarter, as the case may be. Any officer who has elected to proceed under this section shall not be exempted from the requirements of Section 12 of this Act for any fiscal year unless he has caused to be prepared and published, in accordance with this section, a proper statement for each month or quarter of the fiscal year.

Sec. 14. Immediately following the adoption of an annual budget by any city other than one of the first class, the city clerk shall cause the budget to be advertised for the city by publication of it in a newspaper.

Sec. 15. At the same time that copies of the budget of a school district, are filed with the clerk of the tax levying authority for the district, as provided in KRS 160.470, the board of education of the district shall cause the budget to be advertised for the district by publishing a copy of the budget in a newspaper.

Sec. 16. Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county or district, or board or commission of a city or county, may make a contract for materials, supplies or equipment, or for contractual services other than professional, involving an expenditure of more than $500, without first making newspaper advertisement for bids.

Sec. 17. No regulation promulgated by any officer, board or commission of a city, county or district, which is intended to impose liabilities or restrictions upon the public, shall be valid unless and until it has been advertised by newspaper publication.

Sec. 18. Every officer whose duty it is to collect any ad valorem tax for the state or for any political subdivision of the state shall cause notice of the due date of the tax to be advertised by newspaper publication, and shall not be given a quietus for the taxes collected unless he submits proof of such publication.

Sec. 19. Not less than three days before any primary or regular election the county court clerk shall cause to be published in a newspaper a facsimile of the ballot or ballots, or when voting machines are to be used, of the face of the voting machines showing the ballot labels in place. Where the ballots or voting machine faces differ for various precincts within the county, a facsimile of each different ballot or voting machine face shall be published, with appropriate identification. The cost of publication shall be paid by the county, except that the cost of publishing any ballot or voting machine face that is limited to a city election shall be paid by the city.

Sec. 20. Notices of hearings by the Public Service Commission upon applications by public utilities for rate increases or reduction or discontinuance of service shall be advertised by the commission by newspaper publication in the areas that will be affected.

Sec. 21. Notices of hearings by the Railroad Commission upon applications by a railroad for rate increase or a reduction or discontinuance of service shall be advertised by the commission by newspaper publication in the areas that will be affected.

Sec. 22. Notices of hearings by the Department of Motor Transportation upon applications for a certificate or permit, or for a sale, transfer or lease, or for a change in route, or for amendment or abandonment of a certificate or permit, or for a change in rates, shall be advertised by the department by newspaper publication in the areas that will be affected.

Sec. 23. Whenever the sheriff of any county files with the fiscal court a list of uncollectible delinquent taxes, in accordance with KRS 134.360 and 134.370, the fiscal court shall promptly cause such list, showing the name of and amount due from each delinquent taxpayer, to be advertised by newspaper publication. A fee of $1.00 shall be added to the amount of each tax claim so published, as publication costs.

Sec. 24. Except as provided in subsections (2) and (3) of this section, the administrator or executor of the estate of any decedent shall, upon receipt of his letters of appointment, cause notice to be given by newspaper publication of the fact of his appointment, and that all persons having claims against the estate shall present them, verified according to law, to the administrator or executor, at a designated address, not later than a designated date, to be fixed as three months after the final publication. The first publication shall be made within one month after the receipt of the letters of appointment.

(2) Such publication is not required where notice to creditors has been published by a former administrator or executor of the estate.

(3) The court may in its discretion dispense with such publication when the gross assets of the estate are insufficient to pay preferred claims. The court may also dispense with publication when the gross assets of the estate, including real and personal property, do not exceed $500 in value, in which case the administrator or executor, within one month after receipt of his letters of appointment, shall post notices in three prominent places, including the courthouse of the county of his appointment, setting forth the fact of his appointment and notifying creditors of the decedent to present their claims to him by a designated date, which shall be three months after the date on which the notices are posted.

Sec. 25. Whenever, by the provisions of KRS 395.015 or 395.016, notice of hearing of an application for appointment of an executor, administrator, administrator with the will annexed, guardian or committee is required, the person who files the application must cause notice of the application to be given by newspaper publication, stating the name of the decedent, or the minor or incompetent person, the name of the person filing the application, the nature of the letters sought, and the time and place of hearing on the application.

Sec. 26. No sale of general obligation bonds or revenue bonds of any governmental unit or political subdivision, or agency thereof, shall be made except upon newspaper advertisement for bids, published for the publication area constituted by the political subdivision or governmental unit.

Sec. 27. Upon request made to the master commissioner by any person who will have a substantial interest in the proceeds of a judicial sale of real estate, the master commissioner shall cause the required advertisement of sale to be published in display form.

### PENALTIES

Sec. 28. Any person who violates any provision of this Act shall be fined not less than $50 nor more than $500. In addition, any officer who fails to comply with any of the provisions of Sections 12, 13, 14, 15, 19 or 23 of this Act shall, for each such failure, be subject to a forfeiture of not less than $50 nor more than $500, in the discretion of the court, which may be recovered in a civil action brought by any citizen of the city, county or district for which the officer serves. A reasonable fee for the attorney of the citizen bringing the action shall be taxed as costs.

### REPEALS

Sec. 29. This Act is intended to standardize and make uniform the law relating to legal advertisements and to that end it shall be deemed to supersede all other statutes and parts of statutes containing specialized provisions for particular advertisements, to the extent that such provisions are in conflict with this Act. KRS 24.020, 57.220, 61.290, 61.295, 396.005, 424.010, 424.020, 424.030, and 424.040 are specifically repealed.

### Calendar

**HB 112, SB 224, SB 109, SB 123, SB 71, SR 50, SR 56, SB 244, SB 255, HB 83, SB 239, SB 243, HB 270, HB 223** were taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that they be read by title only. Agreed by a majority of the members elected. Ordered placed in Orders of the Day.

### Orders of the Day

**HB 93** taken from the Orders of the Day and ordered read at length for the third time. Senator Melton moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Melton moved the Previous Question on **HB 93.** Agreed by voice vote.

On roll call, the vote was Yeas 32—Anggelis, Bassett, Bonn, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young. Nays 0.

**HB 93** was passed and the title agreed to.

### Motions

Senator Knuckles moved to suspend the Rules for the purpose of making a motion. Agreed.

Senator Knuckles moved that **SR 53** be taken from its place in the Orders of the Day and placed on passage. Agreed.

### Orders of the Day

**SR 53** taken from the Orders of the Day and ordered read at length for the third time. Senator Knuckles moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Knuckles moved the adoption of **SR 53.** Adopted by voice vote.

**SR 53** was passed and the title agreed to.

**SB 104** taken from the Orders of the Day. Senator Anggelis moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 207** taken from the Orders of the Day. Senator Johnson moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 223** taken from the Orders of the Day. Senator Anggelis moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 220** taken from the Orders of the Day and ordered read at length for the third time. Senator McCann moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator McCann proposed an amendment to **SB 220.**

Amend printed copy of **SB 220** on page 2, section 1, line 6 by deleting the word "Grandmothers" and substituting, therefor, the word "Grandfathers".

Senator McCann moved the adoption of said amendment. Adopted by voice vote.

Senator McCann moved the Previous Question on **SB 220** as amended. Agreed.

On roll call, the vote was Yeas 31—Anggelis, Bassett, Blake, Bonn, Byers, Cornett, C. H. Davis, Mrs. J. H. Davis, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Ware, Warinner, Willis, Young. Nays 0.

**SB 220** was passed and the title agreed to.

Senator McCann moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

Senator Hamilton moved that **HB 35** be substituted in lieu of **SB 205** and placed on passage. Agreed by voice vote.

**HB 35** taken from the Orders of the Day and ordered read at length for the third time. Senator Hamilton moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Hamilton moved that the Committee Amendment to **HB 35** be adopted.

Amend printed copy of **HB 35** in Senate on page 2, section 2, line 5 by adding immediately thereafter the following:

Section 3. No county, city, town, municipal corporation, agency or instrumentality of the Commonwealth shall employ any time or adopt any ordinance, resolution or order providing for the use of any time other than that specified in KRS 2.160.

Section 4. The Commissioner of Finance shall not draw any warrant upon the State Treasury for the payment of Commonwealth funds to any county, city, town, municipal corporation, agency or instrumentality of the Commonwealth which uses or employs any time or which has adopted or hereafter adopts any ordinance, resolution or order providing for the use of any time other than that specified in KRS 2.160.

Adopted by voice vote.

Senator Hamilton moved the Previous Question on **HB 35** as amended. Agreed by voice vote.

On roll call, the vote was Yeas 32—Anggelis, Bassett, Blake, Byers, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, Melton, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young. Nays 3—Bonn, McCann, Miller.

Senator Warinner moved to amend the title of **HB 35.**

Amend title of **HB 35** so as to read "AN ACT relating to the Standard of time and to be known as the Stith-Hamilton Act."

Agreed by voice vote.

**HB 35** was passed and the title agreed to.

Senator Hamilton moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

Senator Clay moved that **SB 205** be laid on the Clerk's desk. Agreed by voice vote.

### Motions

Senator Ware moved to suspend the Rules for the purpose of introducing a resolution. Agreed.

**SR 62,** by Senator Ware: A RESOLUTION in honor of Honorable James E. Quill.

WHEREAS, the General Assembly has received the sad news of the death of Honorable James E. Quill at 5 a.m. today, February 28, 1958, and

WHEREAS, the said James E. Quill has reflected great honor on the state of Kentucky by virtue of his distinguished public service and his exemplary private life, in the following manner:

Member and former president, Kenton County Bar,
Member, State Bar Association,
Justice of Peace, Kenton County,
Member of House in General Assembly, and floor leader, 1942-1944,
Kenton County Attorney, 1945-1948,
Commonwealth Attorney, from 1948 to his death,
Former president, Kentucky Commonwealth's Attorneys Association,
Organizer, Democrat Club of Kenton County,
Member, Knights of Columbus, Fourth Degree, and
Especially active in all polio drives and in all civic affairs.

He is survived by his wife, Mrs. Mary Quill, 111 Ridgmont Avenue, South Hills, and three children, Rev. James Quill, Assistant Pastor, Holy Cross Church, Covington; Kevin Quill and Sally Quill, at home; a brother, Dr. Lawrence Quill, surgeon of Newport; and a sister, Mrs. Ann Quill Niederlander, an attorney of St. Louis, Missouri;

WHEREAS, it is the desire of this house to express its grief and sympathy for his survivors,

NOW, THEREFORE,

*Be it Resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:*

That the Senate extends its sympathy and condolences to the wife and other survivors of James E. Quill; that this Resolution be spread on the records of the Senate; and that when the Senate adjourns today, it does so in honor of Honorable James E. Quill.

Senator Ware moved the adoption of said resolution.

Adopted by voice vote.

### Reference of Bills

The President announced the referral of the following bills and resolutions:

Education: **SB 275.**
Revenue and Taxation: **SB 276, SB 283, SB 285.**
Judiciary: **SB 277, SB 287.**
Municipalities: **SB 278.**
Ways and Means: **SB 279, SB 281.**
Executive and Legislative Affairs: **SB 280, SB 290, SB 291.**
Public Utilities: **SB 282.**
Suffrage, Elections and Constitutional Amendments: **SB 284, SB 288.**
Conservation: **SB 286.**
Agriculture and State Fair: **SB 289.**
Claims: **SR 59, SR 61.**

Senator Bassett moved adjournment until 8:00 p.m., Monday, March 3, 1958. Agreed.

## MONDAY, MARCH 3, 1958

## FORTY-FOURTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Father O'Dwyer of the Catholic Church of Frankfort.

The roll was called. All members present except Senator Cornett, who was granted leave of absence on motion of Senator McCann.

The reading of the Journal for Friday, February 28, 1958, dispensed with and the same approved on motion of Senator McCann.

### Motions

Senator Bassett moved that **HB 12** be made a special order of business as soon as the Orders of the Day were to be considered. Agreed.

Senator Johnson moved that **SB 208** be taken from its place in the Orders of the Day to be considered after action is taken on **HB 12.** Agreed.

Senator Young moved that Leon J. Shaikun, a former member of the Senate, be granted the privilege of the floor. Agreed.

Senator Kelly moved that Robert Harrington Patrick, Sharon Louise Patrick be made Honorary Pages of the Senate. Agreed.

Senator Johnson moved that Gregory Earl Hurley, Bruce Hurley, Billie Kay Coleman be made Honorary Pages of the Senate. Agreed.

Senator Overbey moved that Jeannie Rae Billington be made an Honorary Page of the Senate. Agreed.

Senator Hamilton moved that Julia Yagel, Joseph Yagel, George Yagel, David Yagel, Margaret Camille Horn, Samuel Hayes Horn, James Dawson Horn, William Wells Harrod, Michael Lee Harrod, Linda Kay Harrod, Gary C. Arnold, Freda Jo Sharp, Janice Marie Jamison, Edward Peter Lynch, Richard Anthony Lynch, Christopher Francis Lynch, Wendy Susan Gilpin, Mark Stephen Mitchell, Scott Gregory Mitchell, Craig Thompson Mitchell, Kate Elliston, Charles M. Perkins, Leslie Ray Perkins, James Bolton Bevins, John K. Juett, and William B. Bevins be made Honorary Pages of the Senate. Agreed.

### Introductions

**SR 63,** by Senator Warinner: A RESOLUTION calling for a study of coal resources and use.

**SR 64,** by Senator Howell: A RESOLUTION conveying to the people of Prestonsburg and Floyd County the condolences of the Senate of the Commonwealth of Kentucky.

WHEREAS, a shocking and numbing tragedy has been visited upon the people of Prestonsburg and Floyd County in the form of a school bus accident on Friday, February 28, 1958, in which twenty-seven persons lost their lives;

WHEREAS, the loss of life is made more appalling by virtue of the fact that twenty-six of those who died were children of teen age or younger who though they had enjoyed the magic and wonder of life for the very young are to be denied forever the further joy, satisfaction and sorrow which the fullness of years contain;

WHEREAS, those whose lives were so abruptly snuffed out represent a potential loss in leadership to the community, county, state and nation which can ill be afforded;

WHEREAS, however, considerations of personal grief and bereavement brought upon the families of those who were lost overshadow, at least for the present, all others including the implication involved in their loss to the citizenry at large;

WHEREAS, this disaster has caused a scar upon the heart of every Kentuckian and has touched that of every citizen of the nation; and

WHEREAS, it is the desire of this body, as representatives of all the people of the Commonwealth to convey by appropriate expression their collective sympathy;

NOW, THEREFORE,

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Senate of the Commonwealth of Kentucky does hereby extend to the people of Prestonsburg and Floyd County and particularly to the parents and families of those children who died as a result of this tragedy its deep and abiding sympathy.

Section 2. The Governor is requested to issue a proclamation directing that all flags throughout the Commonwealth be flown at half mast for such period of time as is deemed appropriate.

Section 3. That when the Senate does adjourn on Monday, March 3, 1958, it do so in memory of those who were the victims of this untimely and unfortunate accident.

Section 4. That the Clerk of the Senate is directed to cause copies of this resolution to be sent to the parents and families of the children who died in this catastrophe.

Senator Howell moved the adoption of said resolution. Adopted by voice vote.

**SR 65**, by Senator Howell: A CONCURRENT RESOLUTION requesting and petitioning the United States Soil Conservation Service and the Federal Bureau of Public Roads to institute a study relative to the utilization of highway fills for water impoundment along highways.

**SB 293**, by Senator Warinner: AN ACT relating to public monuments.

**SB 294**, by Senator Francis: AN ACT relating to a criminal bond pending consideration of probation application.

### Calendar

**SB 217, SB 273** were taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that they be read by title only. Agreed by a majority of the members elected. Ordered placed in Orders of the Day.

### Orders of the Day

**HB 12** taken from the Orders of the Day. Senator Bassett moved that consideration of said bill be deferred and that it retain its place in Orders of the Day.

Senator Anggelis moved that **HB 12** be tabled. The President ruled that Senator Bassett's motion was in order due to the fact that **HB 12** had previously been made a special order of business and therefore the motion to table **HB 12** was out of order. Motion was put that **HB 12** retain its place in the Orders of the Day. Agreed by voice vote.

**SB 208** taken from the Orders of the Day and ordered read at length for the third time. Senator Johnson moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Johnson proposed Amendment No. 1 to **SB 208.**

Amend printed copy of **SB 208** on page 2, section 1, line 7, by striking the word, "or" and adding after the word, "dentistry" the words, "or pharmacy";
and
on page 2, section 1, line 8, by striking the word, "or", and adding after the word, "dentist" the words, "or pharmacist";
and
on page 2, section 1, line 17, by striking the word "or" and adding at the end of the line the words, "or pharmacy";
and
on page 3, section 4, line 2, by adding immediately thereafter the following: "specifying the medical services which the plan will provide, or from";
and
on page 3, section 5, line 3, by striking the word "and";
and
on page 3, section 5, line 5, by striking the word, "employee" and inserting in lieu thereof the word "employer";
and
on page 4, section 8, line 2, by striking the word "or" and adding at the end of the line the words, "or pharmacy";

Senator Johnson moved the adoption of said amendment. Adopted by voice vote.

Senator Johnson proposed Amendment No. 2 to **SB 208.**

Amend printed copy of **SB 208** on page 5, section 11, line 3, and on page 5, section 11, line 3, by striking the number 273 and inserting in lieu thereof the following: "303, nor upon any medical service plan operated by the Commonwealth, the United States, or any other governmental agency."

Senator Johnson moved the adoption of said amendment. Adopted by voice vote.

Senator Johnson moved the Previous Question on **SB 208** as amended. Agreed.

On roll call, the vote was Yeas 29—Anggelis, Bassett, Blake, Blue, Bonn, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Francis, Greene, Hamilton, Hickerson, Howard, Jackson, Johnson, Kelly, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Ware, Warinner, Willis, Young. Nays 6—Byers, Clay, Fields, Howell, Knuckles, Van Hoose.

Senator Johnson moved to amend the title of **SB 208.**

Amend title of **SB 208** on page 1, the title line by deleting from the title the words, "the practice of medicine" and inserting in place thereof the words, "Medical Service Plans."

Adopted by voice vote.

**SB 208** was passed and the title agreed to.

Senator Johnson moved that the vote by which said bill was passed be reconsidered and said motion laid on the table. Agreed.

**SB 104** taken from the Orders of the Day. Senator Anggelis moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 207** taken from the Orders of the Day. Senator Johnson moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 223** taken from the Orders of the Day. Senator Francis moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 162** taken from the Orders of the Day and ordered read at length for the third time. Senator Duncan moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Duncan moved that the Committee Amendment to **SB 162** be adopted.

Amend printed copy of **SB 162** on page 6, by adding Line 1—Section 6. This Act shall apply only to a County that does not contain an incorporated city within its territorial limits.

Adopted by voice vote.

Senator Duncan moved the Previous Queston on **SB 162** as amended. Agreed.

On roll call, the vote was: Yeas, 35—Anggelis, Bassett, Blake, Blue, Bonn, Clay, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis; Nays, 0.

**SB 162** was passed and the title agreed to.

Senator Overbey moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 54** taken from the Orders of the Day. Senator Bassett moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**HB 15** taken from the Orders of the Day and ordered read at length for the third time. Senator Howard moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Howard moved the Previous Question on **HB 15.** Agreed.

On roll call, the vote was: Yeas, 33—Anggelis, Bassett, Blake, Bonn, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**HB 15** was passed and the title agreed to.

Senator Howard moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**HB 111** taken from the Orders of the Day and ordered read at length for the third time. Senator Miller moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Miller moved the Previous Question on **HB 111.** Agreed.

On roll call, the vote was: Yeas, 37—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**HB 111** was passed and the title agreed to.

Senator Miller moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**HB 42** taken from the Orders of the Day and ordered read at length for the third time. Senator Blake moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Blake moved the Previous Question on **HB 42.** Agreed.

On roll call, the vote was: Yeas, 34—Anggelis, Bassett, Blake, Blue, Bonn, Clay, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**HB 42** was passed and the title agreed to.

**HR 11** taken from the Orders of the Day and ordered read at length for the third time. Senator Mrs. J. Harry Davis moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Mrs. J. Harry Davis moved the Previous Question on **HR 11.** Agreed.

On roll call, the vote was: Yeas, 35—Anggelis, Bassett, Blake, Blue, Bonn, Byers, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis, Young; Nays, 0.

**HR 11** was passed and the title agreed to.

**SR 37** taken from the Orders of the Day and ordered read at length for the third time. Senator Willis moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Willis moved the Previous Question on **SR 37.** Agreed.

On roll call, the vote was: Yeas, 35—Anggelis, Bassett, Blake, Blue, Bonn, Byers, Clay, C. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Willis, Young; Nays, 0.

**SR 37** was passed and the title agreed to.

**HB 12** taken from the Orders of the Day and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Richmond proposed Amendment No. 1 to **HB 12.**

Amend printed copy of **HB 12** on line 1 by inserting thereafter the following:

"Amendment Section 1.

A new section of the Kentucky Revised Statutes is created to read as follows:

On non-profit race tracks the tax imposed by KRS 138.510 on wagering shall be at one-half the rate imposed on other tracks.

A non-profit race track as used in this section means an association or corporation which operates a running or trotting horse race track and which is not authorized by its charter to pay dividends, currently or in liquidation, to any of its stockholders, or to make any distribution of its profits to its members, and all the profits of such association or corporation, in excess of operating expenses and amounts expended or reasonably reserved for the repair, maintenance or improvement of the track, grounds and facilities at which it so operates, are used solely for, or are paid to some other association, corporation, institution, agency, foundation, society, or other organization in the United States, to be used by it or another such organization solely for scientific, educational or charitable purposes in such a manner that no part of such profits inure to the benefit of any stockholder or member of such organization nor to the benefit of any stockholder or member of the corporation or association which operates the track. No association or corporation shall be considered as operating a non-profit race track if any officer, employe, member or shareholder thereof receives or is entitled to receive, directly or indirectly, any pecuniary profit therefrom except reasonable compensation for necessary services actually rendered in the ordinary conduct of its business; "collection of the tax imposed by this Section shall be administered pursuant to the Sections governing the collection of tax imposed by KRS 138.515."

Senator Blake, seconded by Senator Anggelis, moved that Amendment No. 1 be tabled and demanded a roll call.

On roll call, the vote was: Yeas, 5—Anggelis, Blake, Hamilton, Jackson, Richmond; Nays, 30—Bassett, Blue, Bonn, Byers, C. H. Davis, Mrs. J. Harry Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hickerson, Howard, Howell, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Robinson, Van Hoose, Ware, Warinner, Willis, Young.

The motion to table Amendment No. 1 lost.

Senator Young, seconded by Senator Warinner, moved the adoption of Amendment No. 1 and demanded a roll call.

On roll call, the vote was: Yeas, 3—Blake, Bonn, Richmond; Nays, 28—Blue, Byers, C. H. Davis, Mrs. J. Harry Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hickerson, Howard, Howell, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Robinson, Van Hoose, Ware, Warinner, Willis, Young.

Amendment No. 1 was rejected.

Senator Richmond proposed Amendment No. 2 to **HB 12.**

Amend printed copy of **HB 12** on line 1 by adding thereafter the following:

"A new section of Chapter 47 of the Kentucky Revised Statutes is created to read as follows: So much of the tax imposed by KRS 138.510 as is collected on wagering at non-profit tracks shall be credited to the General Fund for the purposes of this Act. A non-profit track, as used in this Section means an association or corporation which operates a running or trotting horse race track and which is not authorized by its charter to pay dividends, currently or in liquidation, to any of its stockholders, or to make any distribution of its profits to its members, and all profits of such association or corporation, in excess of operating expenses and amounts expended or reasonably reserved for the repair, maintenance or improvement of the track, grounds and facilities at which it so operates, are used solely for, or are paid to some other association, corporation, institution, agency, foundation, society, or other organizations in the United States, to be used by it or another such organization solely for scientific, educational or charitable purposes in such a manner that no part of such profits inure to the benefit of any stockholder or member of such organization nor to the benefit of any stockholder or member of the corporation or association which operates the track. No association or corporation shall be considered as operating a non-profit race track if any officer, employe, member or shareholder thereof receives or is entitled to receive, directly or indirectly, any pecuniary profit therefrom except reasonable compensation for necessary services actually rendered in the ordinary conduct of its business. "Of the monies provided under this Act, $20,000 shall be credited each year to the Department of Agriculture, Labor and Statistics to be used to provide for premiums not already supported by state funds at 4-H Club and F.F.A. District shows. $240,000 shall be credited to the Department of Education to be used to provide sixty four-year scholarships annually for undergraduate work in teaching in one of the colleges supported by state funds. A candidate for a scholarship must be a citizen of Kentucky, a graduate of a Kentucky high school, and express a desire to teach in the Kentucky school system upon graduation from college. One scholarship shall be awarded in each county every two years, the Commissioner of Education to designate the sixty counties eligible the first year of each biennium, and those eligible the second. Scholarships shall be awarded in each county by a committee composed of the chairman of the county school board, the county school superintendent, and the county school supervisor, with due regard for the scholastic ability, leadership traits, and need of the candidates. The Commissioner of Education shall have authority to regulate the time of disbursement of any scholarship monies, and may for just reason discontinue any scholarship awarded under the provisions of this Act. Any portion of the money not awarded at the end of any fiscal year, and any sums remaining from scholarships discontinued by the Commissioner or abandoned by recipients shall be paid into the General Fund."

Senator Kidwell rose to a Point of Order stating that Amendment No. 2 appropriating money is not germane to the subject. The Chair ruled that Amendment No. 2 is in order, as it only earmarks money for certain purposes.

Senator Van Hoose moved the Previous Question on Amendment No. 2. Agreed by voice vote.

Senators Young and Van Hoose demanding a roll call, the vote on Amendment No. 2 to **HB 12** was: Yeas, 2—Bonn, Richmond.

Nays, 30—Bassett, Blake, Blue, Byers, C. H. Davis, Mrs. J. Harry Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hickerson, Howard, Howell, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Robinson, Van Hoose, Ware, Warinner, Willis, Young.

Amendment No. 2 was rejected.

On roll call, the vote on **HB 12** was: Yeas, 31—Bassett, Blue, Byers, Clay, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hickerson, Howard, Howell, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Robinson, Van Hoose, Ware, Warinner, Willis, Young. Nays, 5—Anggelis, Bonn, Hamilton, Jackson, Richmond.

**HB 12** was passed and the title agreed to.

Senator McCann moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed by voice vote.

### Introductions

Senator Howell moved to suspend the Rules for the purpose of introducing bills. Agreed.

**SB 295,** by Senator Miller: AN ACT relating to pharmacy.

**SB 296,** by Senators Howell and Van Hoose: AN ACT proposing an amendment to the Constitution of Kentucky relating to the issuance and sale of state bonds to provide for the payment of a bonus to veterans.

### Reference of Bills

The President announced referral of the following bill:

Labor and Industry: **SB 292.**

Senator Bassett moved adjournment until 1:00 p.m., Tuesday, March 4, 1958. Agreed.

## TUESDAY, MARCH 4, 1958

## FORTY-FIFTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Father O'Dwyer of the Catholic Church of Frankfort.

The roll was called. All members present except Senators Cornett and Kidwell, who were granted leave of absence on motion of Senator McCann.

The reading of the Journal for Monday, March 3, 1958, dispensed with and the same approved on motion of Senator McCann.

### Motions

Senator Bassett moved that **HB 83** be made a special order of business as soon as the Orders of the Day were to be considered. Agreed.

Senator Anggelis moved that **SB 14** be taken from its place in the Orders of the Day to be considered after action is taken on **HB 83.** Agreed by voice vote.

Senator Anggelis moved that Paul Baker Smith, Jackie Jenkins, Robert Lee Davis and Robert Depew be made Honorary Pages of the Senate. Agreed.

Senator Jackson moved that Marcia Ruth Cassity, Lucia Ann Cassity, Harry Bradford Stephenson, Patricia Allen Moss, Deborah Hart Roberts, Johny Taylor be made Honorary Pages of the Senate. Agreed.

### Committee Appointments

The President announced the following Senators were to meet Rocky Marciano in the Governor's office and escort him to the Senate Chamber: Senators Willis, Blue, Hamilton.

### Introductions

**SB 297,** by Senator Van Hoose: AN ACT relating to the Legislative Research Commission.

### Report of Committees

Committee on State and County Government reported **SB 221** with the expression of opinion that the same should not pass.

Committee on State and County Government reported **SB 251, SB 146** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 251:** AN ACT relating to master commissioners.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 64.260 of the Kentucky Revised Statutes is amended to read as follows:

(1) The fees of court commissioners and receivers for the following services shall be as follows:

| | |
|---|---|
| To a commissioner for allotting dower or settling an account, per day, not to exceed | $15.00 |
| To a commissioner in a county containing a city of the first class for dividing land or appraising damage for rights-of-way, a reasonable sum to be fixed by the court. | |
| To a commissioner in a county not containing a city of the first class for dividing land or appraising damage for rights-of-way, per day, not to exceed | 15.00 |
| To a commissioner for making a deed | 7.50 |
| To master commissioner or receiver, where the amount is not agreed upon by the parties, for each day they are actually engaged | 15.00 |
| For selling land or personal property, where the amount of the sales does not exceed $2,000 | 15.00 |
| Where the sale amounts to more than $2,000, but does not exceed $5,000 | 25.00 |
| Where the sale amounts to more than $5,000, but does not exceed $10,000 | 37.50 |
| Where the sale exceeds $10,000 | 50.00 |
| Where the officer goes out of the county to make the sale he shall be allowed his actual expenses and $7.50 per day in addition to the fees. | |
| Where more than one tract of land is sold under the same decree, the court may allow not exceeding $7.50 for each additional tract sold. | |
| If a sale is set aside because of the fault of the officer making the sale, he shall not receive any compensation for his services connected with the sale. | |
| For receiving and paying out money under an order of court: | |
| Where the amount is more than $1,000, but does not exceed $2,000, 2% on the first $1,000 and 2% on the excess. | |
| Where the amount is more than $2,000, but does not exceed $5,000, 2% on the first $2,000 and 1.5% on the excess. | |
| Where the amount is over $5,000, he shall receive fees on the first $5,000 as above provided, and 1% on the remainder, not to exceed a total of $500 for such receipts and payments. | |

(2) If the commissioner needs, for the proper conduct of his office, a deputy, and he and his deputy or deputies are constantly employed in the discharge of their duties, the court may allow him, for

reports and other services rendered under order of the court, such fees as the court prescribes.

(3) Fees and allowances to commissioners and receivers shall, in all cases, be taxed as part of the costs, and may be collected by distress as circuit clerk's fees are collected or on motion of the persons entitled to them by judgment and execution or attachment.

(4) No allowance shall be made to a commissioner or receiver until he has filed in court a written statement under oath of the number of days he has acted. In all cases evidence may be heard for and against an allowance.

Section 2. Section 64.265 of the Kentucky Revised Statutes is amended to read as follows:

In circuit courts having continuous session, except as provided by KRS 64.270, the master commissioner may, in addition to other fees provided by law, receive and be paid by the fiscal court of the county wherein said circuit court is held an annual salary in a sum not less than $1,200 and not exceeding $3,000 to be fixed by order of said circuit court and said salary shall be paid in equal monthly installments commencing with the date of the order of said circuit court shall be by the clerk thereof certified to said fiscal court. The master commissioner shall be allowed the expense of his printing and office supplies, to be paid by the fiscal court of the county upon approval of the circuit judge.

Section 3. Section 64.310 of the Kentucky Revised Statutes is amended to read as follows:

(1) Arbitrators shall be allowed not less than fifteen dollars nor more than twenty-five dollars per day, to be paid by the successful party, and taxed as costs.

(2) Where no other fee is provided by law, appraisers shall be allowed five dollars per day, to be paid out of the estate. In counties containing a city of the first, second or third class, the appraisers shall be allowed a fee of not less than ten dollars per day for appraising property within the city, and for appraising property outside of said city, they shall be allowed a fee of not less than fifteen dollars nor more than twenty-five dollars per day. At least two of the three appraisers shall be licensed real estate brokers.

(3) When lands or improvements, in a county containing a population of 150,000 or over, are ordered by a court to be sold, and an appraisement is required the appraisers shall be paid out of the proceeds of the sale a reasonable compensation fixed by the court, to be taxed as a part of the costs of the action.

**SB 146:** AN ACT relating to the closing of public offices.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 61.160 of the Kentucky Revised Statutes is hereby amended to read as follows:

Public offices in counties containing a city of the first, second or third class may close Saturday. The public offices in other counties may close any one day of the week.

Committee on Labor and Industry reported **SB 292** without expression of opinion.

Committee on Labor and Industry reported **SB 246** without expression of opinion.

### Orders of the Day

**HB 83** taken from the Orders of the Day. Senator Bassett moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

**SB 14** taken from the Orders of the Day and ordered read at length for the third time. Senator Clay moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Clay moved the Previous Question on **SB 14.** Agreed.

On roll call, the vote was: Yeas 32—Anggelis, Bassett, Bonn, Byers, Clay, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Ware, Warinner, Willis, Young. Nays 0.

**SB 14** was passed and the title agreed to.

**SB 104** taken from the Orders of the Day. Senator Anggelis moved that consideration of said bill be deferred and that it retain its place in Orders of the Day. Agreed.

### House Message

Announcing passage of **HB 102, HB 103, HB 104, HB 109, HB 120, HB 147, HB 187, HB 250, HR 84, HR 85, HR 87, HR 91, SR 53, SB 19** with amendment attached thereto. Ordered that said bills and resolutions be referred.

### Introductions

Senator Hamilton moved to suspend the Rules for the purpose of introducing bills. Agreed.

**SB 298,** by Senator Hamilton: AN ACT relating to motor vehicles.

**SB 299,** by Senator Clay: AN ACT relating to conviction of felony; punishment on second and third offenses.

### Recess

Senator Bassett moved that the Senate recess for thirty minutes. Agreed. At the appointed hour, the President of the Senate called the Senate to order.

### Orders of the Day

**HB 83** taken from the Orders of the Day and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Melton proposed an Amendment to **HB 83.**

Amend printed copy of **HB 83** on page 2, line 17 by adding after the figure "$12,000." the following:

The Commissioner of Highways shall, semi-annually, on the first day of January and the first day of July, publish or cause to be published a status report of all "Force Account" work under way and/or authorized under this section of the statutes.

This status report shall show for each such project:

The nature of the emergency, if any,
The county in which the project is located,
The length of the project,
The estimated cost of the project,
The cost of work done as of the date of the status report, and
The road or road connection on which the project is located.

After the completion of each such project, a final report shall be made showing the total cost of the project. This final report shall be itemized to show a breakdown of the cost for labor, materials, equipment rental and other incidentals entering into the cost of the work.

Senator Melton, seconded by Senator Freeman, moved the adoption of the Amendment and demanded a roll call.

On roll call, the vote was: Yeas 15—Blue, Bonn, Clay, Duffy, Duncan, Francis, Freeman, Hickerson, McCann, Melton, Miller, Reuscher, Ware, Willis, Young. Nays 21—Anggelis, Bassett, Blake, Byers, C. H. Davis, Mrs. J. Harry Davis, Fields, Greene, Hamilton, Howard, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, Overbey, Richmond, Robinson, Van Hoose, Warinner.

The Amendment was rejected.

Senator Bassett moved the Previous Question on **HB 83.** Agreed by voice vote.

On roll call, the vote was: Yeas 23—Anggelis, Bassett, Blake, Byers, C. H. Davis, Mrs. J. H. Davis, Duncan, Fields, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, Overbey, Richmond, Robinson, Van Hoose, Warinner. Nays 12—Blue, Bonn, Duffy, Francis, Freeman, McCann, Melton, Miller, Reuscher, Ware, Willis, Young.

**HB 83** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed by voice vote.

## Introductions

Senator Bassett moved to suspend the Rules for the purpose of introducing bills and resolutions. Agreed.

**SB 300,** by Senator Bassett: AN ACT relating to state archives and records.

**SR 66**, by Senators Kelly, Overbey, Hamilton, Anggelis, Johnson, Robinson, Jackson: A RESOLUTION "memorializing the Congress of the United States to extend Public Law No. 550, 82nd Congress, relating to education and training benefits, to service men and women as long as the draft continues."

**SR 67**, by Senator McCann: A RESOLUTION restricting the amount of contribution by members of the Senate to requests arising within its chamber.

*Be it Resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:*

That where requests for any donations are made upon the floor of the Senate at any time from now until the end of the current legislative session, no senator shall be permitted to give or donate in monies an amount in excess of one dollar.

Senator McCann, seconded by Senator Lucas, moved the adoption of said resolution and demanded a roll call.

On roll call, the vote was: Yeas 3—Blake, McCann, Lieutenant Governor Waterfield. Nays 2—Lucas, Willis.

**SR 67** did not pass for lack of constitutional majority.

**SR 68**, by Senator Bonn: A RESOLUTION authorizing the personal representative of the estate of Harriet Rodman Roche to sue the Department of Highways of the Commonwealth of Kentucky and the Commonwealth of Kentucky, or either of them.

**SR 69**, by Senator Bonn: A RESOLUTION authorizing Gerald J. Roche to sue the Department of Highways of the Commonwealth of Kentucky and the Commonwealth of Kentucky or either of them.

## Report of Committees

Senator Clay moved to suspend the Rules for the purpose of making a Committee Report. Agreed.

Committee on Agriculture and State Fair reported **SB 289** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 289**: AN ACT relating to the Kentucky Agricultural Experiment Station.

WHEREAS, the State Entomologist is responsible for the adoption and the carrying out of such measures as he deems advisable to protect crops from the ravages of the Japanese beetle; and

WHEREAS, the Japanese beetle is injurious to various crops in its larvae (grub or worm stage) and to various other crops in its adult life; and

WHEREAS, the Japanese beetle in its larvae stage is most damaging to the roots of sod crops and to the roots of corn plants, the damaged roots reducing the production of grass causing a material reduction in the yield of corn; and

WHEREAS, the Japanese beetle in the adult stage feeds on leaves of trees, fruit and vegetable plants, as well as ripe fruit; and

WHEREAS, there is an outbreak of significance in Pike County, Greenup County, Campbell County and Jefferson County, it is imperative that this infestation be controlled and checked to prevent great losses to the farmers in these areas;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

For the purposes of control of the Japanese beetle there is hereby appropriated out of the General Fund to the Kentucky Agricultural Experiment Station, the sum of fifteen thousand dollars for each of the fiscal years 1958-1959 and 1959-1960.

Senator Bassett moved adjournment until 1:00 p.m., Wednesday, March 5, 1958. Agreed.

## WEDNESDAY, MARCH 5, 1958

## FORTY-SIXTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Father O'Dwyer of the Catholic Church of Frankfort.

The roll was called. All members present except Senator Byers, who was granted leave of absence on motion of Senator McCann.

The reading of the Journal for Tuesday, March 4, 1958, dispensed with and the same approved on motion of Senator McCann.

### Communications

Senator Clay moved that the communication read by the Clerk be spread upon the Journal. The Chair ruled motion lost for lack of second to the motion.

### Reference of Bills

The following bills and resolutions were automatically referred to the Rules Committee:

**SB 293**
**SB 294**
**SB 295**
**SB 296**
**SB 297**
**SB 298**
**SB 299**
**SB 300**
**SR 63**
**SR 65**
**SR 66**
**SR 68**
**SR 69**

### Motions

Senator Ware moved that Patricia Ware, Ann Ware, Claire Hummel, Bill Kingsbury be made Honorary Pages of the Senate. Agreed.

Senator Willis moved that Pamela Dean Burna, Donald Lee Burna, Judith Fallon South, Leslie Smith Marshall be made Honorary Pages of the Senate. Agreed.

Senator Kelly moved that Richard Patrick, Kay Patrick, Nancy Patrick, Laura Jane Clayton, Tommy Bowne, Jane Bowne, Carolyn Bowne be made Honorary Pages of the Senate. Agreed.

Senator Blue moved that Jane Baker Humphrey, Teresa Lynn Hearon, Stephen Ray Dunn, Stephen Mills Johnson, David Wynn Southerland, Philip Jerone Coffman, Wayne Davis Whitfield, Kim David Crowell, Phillip Ray Cole be made Honorary Pages of the Senate. Agreed.

Senator Hickerson moved that Andrea Hays, Kathy Hays, Hart Hays, Susan Reed, John Edward Goatley, Wm. C. Hundley, Michael Hart, Charles Hagan Harmon, Douglas Broadus Hays, Philip S.

George, Hyleme S. George be made Honorary Pages of the Senate. Agreed.

Senator Anggelis moved that Mark Louis De Joe be made an Honorary Page of the Senate. Agreed.

Senator Richmond moved that **SB 19** with House amendment attached thereto be made a special order of business as soon as the Orders of the Day were to be considered. Agreed by voice vote.

### Committee Appointments

The President of the Senate announced the appointment of the following Senators to the 1958 Senate Rules Committee: Senator Bassett, Chairman; Anggelis, Blake, Cornett, C. H. Davis, Duncan, Fields, Greene, Hamilton, Howard, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, Overbey, Richmond, Robinson, Warinner.

### Recess

Senator Bassett moved that the Senate recess for thirty minutes. Agreed. At the appointed hour, the President of the Senate called the Senate to order.

### House Message

Announcing passage of **HB 154.** Ordered that said bill be referred.

### Report on Enrolled Bills

The Committee on Enrollment reported that **HB 157, HB 111, HB 93, HB 90, HB 42, HB 35, HB 15, HB 12, HR 11** had been examined and found correctly enrolled. Said bills and resolution read at length, compared and signed in open session by the President. Ordered that the original and enrolled copies be delivered to the House.

### Introductions

Senator Van Hoose moved to suspend the Rules for the purpose of introducing bills and resolutions. Agreed.

**SR 70,** by Senators Van Hoose, Knuckles, C. H. Davis, Howell, Warinner, Greene, Richmond, Robinson, Cornett: A CONCURRENT RESOLUTION expressing appreciation to the Temperance League of Kentucky, Incorporated and to the Reverend Walter C. House for making possible programs for the Prayer-Fellowship Breakfasts.

**SR 71,** by Senator McCann: A CONCURRENT RESOLUTION providing for a joint session of the Senate and House of Representatives on March 17, 1958 to witness a program in honor of Saint Patrick's Day.

WHEREAS, Saint Patrick, patron saint of Ireland, is honored in memory on March 17 by those who appreciate the contributions of the sons and daughters of the Emerald Isle to the life of this Nation; and

WHEREAS, it is fitting and proper that the General Assembly observe Saint Patrick's Day and participate in the wearing of the green on that occasion;

NOW, THEREFORE,

*Be it resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

That the Senate and the House of Representatives of the General Assembly shall meet in joint session in the House of Representatives on March 17, 1958 for the purpose of witnessing a show in honor of Saint Patrick's Day with members of the general public invited to attend at that time.

Senator McCann moved the adoption of said resolution. Adopted by voice vote.

**SB 301**, by Senator C. H. Davis: AN ACT relating to coal mining.

**SB 302**, by Senators Hamilton and Mrs. J. Harry Davis : AN ACT relating to the interstate system of highways.

**SB 303**, by Senator Robinson: AN ACT relating to highway improvement.

**SB 304**, by Senators Richmond and Freeman: AN ACT relating to the Department of Education.

**SB 305**, by Senator Kelly: AN ACT relating to the preparation of income tax returns.

### Calendar

**SB 251, SB 146, SB 289** were taken from the Calendar and ordered read at length for the second time. Senator Bassett moved that they be read by title only. Agreed by a majority of the members elected. Ordered placed in Orders of the Day.

### Orders of the Day

Senator Richmond moved that **SB 19** be considered and moved concurrence in House Amendment to **SB 19.** Agreed.

Amend printed copy of **SB 19** "On page 1 and 2, section 2, line 1, 2, 3, 4, by striking all of Section 2."

Senator Richmond moved the Previous Question on **SB 19** as amended. Agreed.

On roll call, the vote was: Yeas 29—Anggelis, Blue, Bonn, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hickerson, Howard, Howell, Kelly, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young. Nays 1—Bassett.

**SB 19** was passed and the title agreed to.

Senator Richmond moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 236** taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Hamilton moved that Committee Amendment to **SB 236** be adopted.

Amend printed copy of **SB 236** on page 2, section 1, line 18 by striking line 18 in its entirety and substituting in lieu thereof the following:

"(7) Failure in the practice of their profession to conform to the principles of veterinary"

Adopted by voice vote.

Senator Hamilton moved the Previous Question on **SB 236** as amended. Agreed by voice vote.

On roll call, the vote was: Yeas 33—Bassett, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Young. Nays 0.

**SB 236** was passed and the title agreed to.

Senator Hamilton moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 233** taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Francis moved that the Committee Amendment to **SB 233** be adopted.

Amend printed copy of **SB 233** on page 11, section 9, lines 1 through 13. Delete Section 9 in its entirety.

Adopted by voice vote.

Senator Francis moved the Previous Question on **SB 233** as amended. Agreed by voice vote.

On roll call, the vote was: Yeas 36—Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young. Nays 0.

**SR 233** was passed and the title agreed to.

Senator Francis moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 137** taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time.

Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Richmond moved the Previous Question on **SB 137.** Agreed by voice vote.

On roll call, the vote was: Yeas 34—Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis. Nays 0.

**SB 137** was passed and the title agreed to.

Senator Richmond moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed by voice vote.

**HB 72** was taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Bassett moved the Previous Question on **HB 72.** Agreed by voice vote.

On roll call, the vote was: Yeas 33—Anggelis, Bassett, Blake, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Ware, Warinner, Willis, Young. Nays 2—Freeman, McCann.

**HB 72** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**HB 140** was taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Hamilton moved the Previous Question on **HB 140.** Agreed by voice vote.

On roll call, the vote was: Yeas 36—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Van Hoose, Ware, Warinner, Willis, Young. Nays 0.

**HB 140** was passed and the title agreed to.

Senator Hamilton moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 222** was taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Johnson moved the Previous Question on **SB 222.** Agreed.

On roll call, the vote was: Yeas, 36—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 222** was passed and the title agreed to.

Senator Johnson moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**HB 270** was taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Overbey moved the Previous Question on **HB 270.** Agreed.

On roll call, the vote was: Yeas, 36—Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**HB 270** was passed and the title agreed to.

Senator Overbey moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SR 50** was taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Bassett moved the Previous Question on **SR 50.** Agreed.

On roll call, the vote was: Yeas, 35—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Knuckles, Lucas, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SR 50** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 237** was taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Bassett moved the Previous Question on **SB 237.** Agreed by voice vote.

On roll call, the vote was: Yeas, 36—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Duncan, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 237** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 71** was taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Richmond moved the Previous Question on **SB 71.** Agreed.

On roll call, the vote was: Yeas, 34—Anggelis, Bassett, Blake, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 1—Blue.

**SB 71** was passed and the title agreed to.

Senator Richmond moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 199** was taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Anggelis moved the Previous Question on **SB 199.** Agreed.

On roll call, the vote was: Yeas, 33—Anggelis, Bassett, Blake, Blue, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Hickerson, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Van Hoose, Ware, Warinner, Willis; Nays, 0.

**SB 199** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 202** was taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Bassett moved the Previous Question on **SB 202.** Agreed.

On roll call, the vote was: Yeas, 30—Anggelis, Bassett, Blake, Blue, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Francis, Freeman, Greene, Hamilton, Howard, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Van Hoose, Warinner, Willis; Nays, 0.

**SB 202** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 203** was taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Bassett moved that the Committee Amendment to **SB 203** be adopted.

Amend printed copy of **SB 203** on page 1, section 1, line 13 by deleting the period at the end of line 13 and inserting after the word "municipalities" the words:, "and one from groups representative of industrial management."

Adopted by voice vote.

Senator Bassett moved the Previous Question on **SB 203** as amended. Agreed.

On roll call, the vote was: Yeas, 33—Anggelis, Bassett, Blake, Blue, Bonn, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duffy, Fields, Francis, Freeman, Greene, Hamilton, Howard, Howell, Jackson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Overbey, Reuscher, Richmond, Robinson, Ware, Warinner, Willis, Young; Nays, 0.

**SB 203** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 227** was taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Bassett moved the Previous Question on **SB 227.** Agreed.

On roll call, the vote was: Yeas, 27—Anggelis, Bassett, Blake, Blue, Bonn, Cornett, C. H. Davis, Fields, Francis, Greene, Hamilton, Howard, Howell, Jackson, Johnson, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Van Hoose, Ware, Warinner, Willis; Nays, 3—Duffy, Freeman, Hickerson.

**SB 227** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

## Motions

Senator Hamilton moved to suspend the Rules for the purpose of appointing Honorary Pages in the Senate. Agreed.

Senator Hamilton moved that Raymond E. Perkins, Vickie Lee Perkins, Chris Carlisle, Donna Van Arsdale, James Dearborn Wallace, Charles Mifflin, Ricky Carroll, Marvin Anderson, Vickie May, Jane Baxter May, Joe Perry Hambrick, Noah Wayne Ireland be made Honorary Pages of the Senate. Agreed.

Senator Bassett moved adjournment until 11:00 a.m., Thursday, March 6, 1958. Agreed.

## THURSDAY, MARCH 6, 1958

## FORTY-SEVENTH LEGISLATIVE DAY

The Senate was called to order by the President, Lieutenant Governor Harry Lee Waterfield.

Prayer by the Reverend Father O'Dwyer of the Catholic Church of Frankfort.

The roll was called. All members present except Senators Bonn, Byers, Duffy, Hamilton, who were granted leave of absence on motion of Senator McCann.

The reading of the Journal for Wednesday, March 5, 1958, dispensed with and the same approved on motion of Senator McCann.

### Motions

Senator Van Hoose moved that Phillip Bryan be made an Honorary Page of the Senate. Agreed.

Senator McCann moved that Claude L. Decker be made an Honorary Page of the Senate. Agreed.

### Introductions

**SR 72**, by Senator Warinner: A RESOLUTION memorializing Congress to maintain the manpower level of the National Guard at a minimum of four hundred thousand.

WHEREAS, tbe global political situation is such that our nation may be forced at any moment to defend herself against attack;

WHEREAS, if not territorially attacked we may be required to contain aggression elsewhere in the free world;

WHEREAS, in event such action is demanded an alert, well trained, well equipped and spiritual national guard may well be a deciding factor;

WHEREAS, such a force serves as a constant reminder to our citizenry that the nation has a strong reliable force ready not only to go to the defense of our own nation or a friendly power but also ready and able to cope with any internal disorder or disaster which may occur; and

WHEREAS, the maintenance of a numerically as well as militarily strong guard is of inestimable economic benefit especially in the present period of mass unemployment and apparent recession,

NOW, THEREFORE,

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Congress of the United States be and is hereby petitioned to act in the exercise of its broad legislative powers to maintain the manpower level of the National Guard at not less than four hundred thousand officers and men.

Section 2. That the Clerk of the Senate cause copies of this Resolution to be sent to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Secretary of Defense and to each Senator and Representative now representing the Commonwealth of Kentucky in the Congress of the United States.

Senator Warinner moved the adoption of said resolution. Adopted by voice vote.

**SR 73,** by Senator Robinson: A CONCURRENT RESOLUTION memorializing the Congress of the United States to refrain from placing toll or restriction upon the use of waterways.

WHEREAS, the suggestion has been made whereby the water transportation industry of the United States of America will be restricted and forbidden by federal tolls and controls; and

WHEREAS, in the judgment of the Commonwealth of Kentucky any restriction or waterway toll would be detrimental to the economical development and progress of the United States;

NOW THEREFORE,

*Be it resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. That the Congress of the United States refrain from any restriction or toll on the free use of the waterways of the United States and leave same free for unimpeded development and use.

Section 2. That a copy of this Resolution be mailed by the Clerk of the Senate to all Kentucky's representatives in the Congress of the United States.

Senator Robinson moved the adoption of said resolution. Adopted by voice vote.

**SB 306,** by Senator Howard: AN ACT relating to unfair trade practices by a cemetery, memorial park, or place of burials.

**SB 307,** by Senator Overbey: AN ACT relating to the salaries of certain state wide elective officials.

**SB 308,** by Senator Bassett: AN ACT relating to statements required of foreign and domestic corporations.

**SB 309,** by Senator Howell: AN ACT relating to parks, playgrounds and recreation centers in cities, counties and school districts.

### Report on Enrolled Bills

Committee on Enrollment reported that **SB 19** had been examined and found correctly enrolled. Said bill read at length, compared, and signed in open session by the President. Ordered that the original and enrolled copies be delivered to the House.

Said bill delivered, signed by the Speaker of the House. Ordered delivered to the Governor.

**Orders of the Day**

**SR 9** was taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Bassett moved that the Committee Substitute for **SR 9** be adopted.

COMMITTEE SUBSTITUTE FOR SENATE RESOLUTION NO. 9

A RESOLUTION directing a continuing evaluation of the Minimum Foundation Program and its administration in the common school system of the Commonwealth.

WHEREAS, The Minimum Foundation Law enacted in 1954, as implemented and more fully financed by the 1956 General Assembly, is designed to improve the common school system of the Commonwealth, not only with respect to compensation of teachers, physical structures, equipment, quantity and quality of pupil transportation vehicles, but more importantly in providing future citizens and leaders with progressively better educational opportunities;

WHEREAS, many compelling reasons involving among others matters of economics, social welfare and, probably the most compelling of any, national security make it mandatory that the rate of improvement not only continue uninterruptedly, but that it be accelerated;

WHEREAS, it appears that a continuing study evaluating the accomplishments of the system and identifying those policies and practices which are contributing and those which are not contributing to the desired end will be of invaluable aid in determining future action of the General Assembly in its efforts to provide ways and means of increasing educational opportunities and efficiency;

WHEREAS, the expenditure of $60,105,700 for 1958-1959 and $62,481,300 for 1959-1960 is contemplated, which sums represent an increase of eighty-four percent over the 1954-56 biennium, it is imperative in the interests of economy and efficiency that such a continuing evaluation be made;

WHEREAS, the Senate in Senate Resolution Number 9, Third Extraordinary Session 1956, directed a study of the administration of the common school system, and

WHEREAS, the Legislative Research Commission was unable to complete the study of financial requirements of the common school system, the Commission having determined that a continuing study was necessary for proper evaluation;

NOW, THEREFORE,

*Be it Resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Legislative Research Commission be, and is, hereby authorized and directed to make a continuing and comprehensive study of the common school system, evaluating the accomplishments of the minimum foundation program, continuously reappraising the system in terms of funds expended, opportunities offered, and results obtained, examining the adequacy of provisions of law relating to the common school system, and evaluating administration of the program.

Section 2. That the Departments of Finance and Education and the local school districts be, and are, hereby directed to extend to the Legislative Research Commission their full and complete cooperation by supplying any requested records, statistics, materials, and reports and in any other particular in which the study may be implemented.

Section 3. That the Legislative Research Commission be, and is, hereby authorized to employ such additional qualified and experienced personnel, as it may deem necessary to perform the directed evaluation.

Section 4. That periodic reports on the results of the study be submitted to the members of the General Assembly at such times as results warrant, but in any event a report shall be prepared for each regular session of the General Assembly.

Adopted by voice vote.

Senator Bassett moved the adoption of **SR 9** by way of Committee Substitute.

Adopted by voice vote.

**SR 55** was taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Richmond moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Richmond moved that **SR 55** be adopted by voice vote, and said resolution so adopted.

**SB 255** was taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Clay moved the Previous Question on **SB 255.** Agreed by voice vote.

On roll call, the vote was: Yeas, 31—Anggelis, Bassett, Blake, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duncan, Fields, Francis, Freeman, Greene, Hickerson, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Van Hoose, Ware, Warinner, Willis, Young; Nays, 0.

**SB 255** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

**SB 128** was taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Fields moved the Previous Question on **SB 128.** Agreed.

On roll call, the vote was: Yeas, 30—Anggelis, Bassett, Blake, Blue, Clay, Cornett, C. H. Davis, Mrs. J. H. Davis, Duncan, Fields, Francis, Freeman, Greene, Hickerson, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Melton, Miller, Reuscher, Richmond, Robinson, Ware, Warinner, Willis; Nays, 0.

**SB 128** was passed and the title agreed to.

Senator Fields moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

### Introductions

Senator Knuckles moved to suspend the Rules for the purpose of introducing bills. Agreed.

**SB 310,** by Senators Miller and Ware: AN ACT relating to courts.

**SB 311,** by Senators Knuckles, Richmond, Freeman, Cornett: AN ACT relating to membership on boards of education.

### Orders of the Day

**SB 243** was taken from the Orders of the Day on recommendation of the Rules Committee and ordered read at length for the third time. Senator Bassett moved that it be read by title only and put to passage. Agreed by a majority of the members elected.

Senator Anggelis moved the Previous Question on **SB 243.** Agreed by voice vote.

On roll call, the vote was: Yeas, 21—Anggelis, Bassett, Blake, Cornett, C. H. Davis, Duncan, Fields, Francis, Greene, Hickerson, Howell, Jackson, Johnson, Kelly, Kidwell, Knuckles, Lucas, McCann, Reuscher, Van Hoose, Warinner; Nays, 1—Melton.

**SB 243** was passed and the title agreed to.

Senator Bassett moved that the vote by which said bill was passed be reconsidered and said motion be laid on the table. Agreed.

### Recess

Senator Bassett moved that the Senate recess for thirty minutes. Agreed. At the appointed hour, the President of the Senate called the Senate to order.

Senator Bassett moved to suspend the Rules for the purpose of making a committee report. Agreed.

### Report of Committees

Rules Committee reported **SB 270** with committee amendments attached thereto, **SB 281, SB 290, SB 291, SB 213, SB 212, HB 133** by way of committee substitute, **SB 170, SB 171, SB 172, SB 173, SB 201, SB 235, SB 280, SB 286, SB 287** with committee amendment attached thereto, **SB 300, HB 187, HB 250, HR 84, HR 85, HR 87, HR 91, HR 81, HB 149, SB 246, SB 214, SB 148, SB 229** with committee amendment attached thereto, **HB 29, HB 202, SB 258, SB 248, SB 278, SB 256, SB 139, SB 285, SB 303, SB 161, SB 259, SB 252, SB 48, SR 66** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 270:** AN ACT relating to County employe retirement.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Definitions. As used in this Act unless the context otherwise requires:

(1) "System" means the County Employes Retirement System;

(2) "Board" means the Board of Trustees of the system;

(3) "County" means any county participating in the system in accordance with appropriate executive order, as provided in Section 3 of this Act;

(4) "Examiner" means the medical examiner or examiners as provided in this Act;

(5) "Employe" means every person regularly employed in rendering service to and for a county and whose compensation is payable in whole or in part by such county, and shall include all full time regular employes of the county. In case of any doubt the board shall determine if a person is a county employe within the meaning of Sections 1 through 39 of this Act. The Judge of the County Court, County Court Clerk, County Attorney, Sheriff, Jailer, Coroner, Surveyor, County Commissioners, Justice of the Peace and Constable, and all compensated employes assisting these officials in the performance of their official duties shall be considered county "employes" within the meaning of this Act.

(6) "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employe to office or employment in such county;

(7) "Member" means any employe who is included in the membership of the system;

(8) "Service" means the total of current service and prior service as defined herein;

(9) "Current service" means the number of years and completed months, expressed as a fraction of a year, of employment as an em-

ploye, on and after July 1, 1958, for which compensation is paid by the employer during which employment the employe is a member of the system, except as otherwise provided in Section 23 of this Act;

(10) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1958, for which compensation was paid by the employer;

(11) "Beneficiary" means any person entitled to receive benefits under Sections 1 to 39 of this Act;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means the compensation to an employe working the full working time for his position. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;

(14) "Final compensation" of a member means the creditable compensation to the member during the five calendar years he was paid at the highest average monthly rate of any of the last ten years of creditable compensation preceding the member's retirement date divided by the number of months of service during that five year period. Said five years may be fractional, need not be consecutive, and include only years during which creditable compensation is received by the member. In no case will final compensation be less than that determined on the assumption that the member retired on his normal retirement date. All benefits shall be paid in accordance herewith.

(15) "Retirement allowance" means the retirement payments to which a member is entitled;

(16) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board;

(17) "Normal retirement date" means the sixty-fifth birthday of a member or the date on which the member completes ten years of service, whichever occurs later, except that in no case will a member's normal retirement date be later than his seventy-fifth birthday. The normal retirement date for any member who has passed his seventy-fifth birthday on the date he becomes a member shall be the date he becomes a member, except as otherwise provided in Section 17 of this Act. Notwithstanding anything to the contrary contained in this subsection (17), the normal retirement date of a member shall not be earlier than July 1, 1959;

(18) "Fiscal year" of the system means the twelve months from July 1 through the following June 30.

Section 2. Retirement system established; fund created. There is hereby created and established:

(1) A retirement system for employes to be known as the "County Employes Retirement System" by and in which name it shall, pursuant to the provisions of this Act, transact all of its business and shall have the powers and privileges of a corporation; and

(2) A state fund, called the "County Employes Retirement Fund," which shall consist of all the assets of the system as set forth in this Act.

Section 3. Participation by order; authority for order. (1) Each county will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the County Fiscal Court. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be the July 1 coinciding with or next following the proper entering and signing of the order authorizing participation.

(2) Once a county participates it shall thereafter continue to participate.

Section 4. Membership; persons composing. Membership in the system shall consist of the following:

(1) All persons who become employes of a participating county after the date such county first participates in the system; and

(2) All persons who are employes of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect prior to the October 1 next following such county's participation, or in the case of persons on authorized leave, within 90 days of their return to active service, to become members and thereby agree to make contributions as provided in this Act.

Section 5. Refusal to become member; penalties. Any person who is an employe on the date his county first participates in the system, either in service or on leave from service, who does not elect within the time set forth in this Act to become a member and thereby make contributions required of him by this Act, shall forfeit all right for credit for service which any county prior to the date he might subsequently elect to become a member, notwithstanding anything contained in this Act to the contrary. Prior to the last day of the period during which he may elect to become a member, each such person shall be notified of the penalty resulting from his failure to elect to become a member.

Section 6. Cessation of membership; conditions. The membership of any person in the system shall cease:

(1) Upon withdrawal of his accumulated contributions at or any time after termination of employment, regardless of length of service.

(2) After the expiration of nine calendar months following termination of employment if such termination was:

(a) for any reason other than involuntary termination of employment by the employer without prejudice after ten years of service but before the completion of twenty years of service, unless at such termination of employment the member has had at least twenty years of service;

(b) involuntary termination of employment by the employer without prejudice if the person has less than twenty years of service, unless at such termination of employment the member has had at least ten years of service and is re-employed within eight years of said termination of employment;

(3) Upon service retirement;

(4) Upon death;

(5) Upon termination of employment with prejudice after twenty years of service;

(6) For purposes of Sections 1 to 39 of this Act, termination of employment with prejudice shall mean termination as the result of conviction of the member in a court of competent jurisdiction of embezzlement or larceny of public funds or property or malfeasance in office, or the forcing of a member to make restitution for any funds or property criminally taken by said member at the time of termination of employment.

Section 7. Statement of member to be filed; requirements. Under such rules and regulations as are adopted by the board, each employe of an employer upon becoming a member, or someone on his behalf, shall file with the board, in such form as the board may prescribe, a statement of the facts pertaining to his status as a member, which shall include a detailed description of all service rendered prior to the date of the most recent termination of membership, as the result of termination of employment with such employer, and such other information as the board may require. Until such statement is filed, no member or his beneficiary shall be eligible to receive any benefits under Sections 1 to 39 of this Act. As soon as practicable after said statement is filed, the board shall ascertain the amount of service prior to his becoming a member, if any, to which a member is entitled and shall issue to such member a certificate certifying the length of such service rendered by him which certificate shall, however, become void upon termination of membership for any reason except for death or retirement.

Section 8. Computation of service. The board shall determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service, but in no case shall it allow credit for more than one year of service for all service rendered in any period of twelve consecutive months.

Section 9. Cessation of membership; loss of benefits. When membership ceases, except in the case of retirement, an employe shall thereafter lose all right to any retirement allowance or benefits under Sections 1 to 39 of this Act arising from service prior to the date of such cessation of membership.

Section 10. Service in armed forces to be credited; maximum; requirements. (1) Any member entering the armed forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as service his period of service in the armed forces of the United States, not to exceed six years, provided his discharge therefrom is honorable and he is reemployed within one year after discharge, or upon the subsequent termination of any total disability which existed at the expiration of said year after discharge.

(2) Any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the armed forces of the United States and who was or is reemployed after his honorable discharge therefrom, shall be entitled to have credited as service his period of service in the armed forces, not to exceed six years.

Section 11. Members contributions; rate. (1) (a) Each member shall, commencing on the date he becomes a member, contribute for each pay period for which he receives compensation two and one-half percent of his creditable compensation if his rate of annual compensation does not exceed $4,200. If such member's rate of annual compensation exceeds $4,200, he shall contribute two and one-half percent of that portion of his creditable compensation not in excess of the equivalent applicable rate for such pay period to annual compensation of $4,200 and four percent of that portion of his creditable compensation which is in excess of such rate applicable to annual compensation of $4,200.

(b) Each employe of a county on the date the county first participates in the system who elects to become a member subsequent to such date, but prior to the next succeeding October 1, shall make contributions which he would have made if he had elected to become a member as of the date such county first participated.

(2) The County Treasurer shall cause to be deducted from the salary or compensation of each member for each and every payroll period subsequent to the date of the establishment of the system, the contribution payable by such member as provided in Sections 1 to 39 of this Act, but in no case shall any deduction be made from the compensation of a member after his normal retirement date if such member elects not to contribute.

(3) In determining the creditable compensation of a member in a payroll period, the board may consider the rate of compensation

payable to such member on the first day of the payroll period as continuing throughout such payroll period, and, to facilitate the making of deductions, may allow the omission of deductions from any fractional amount less than one dollar from any member in any period and may allow the omission of deductions from compensation for any period less than a full payroll period if any employe was not a member on the first day of the payroll period.

(4) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by Sections 1 to 39 of this Act.

(5) Notwithstanding any other provisions of this section, no deduction shall be made from any member's compensation if the employer's contribution required hereunder is in default.

Section 12. Employer contributions. (1) Each employer shall contribute annually an amount equal to a certain percentage of the creditable compensation of its members, to be known as the "normal contribution," and an additional amount equal to a certain percentage of such creditable compensation to be known as the "prior service liability contribution."

(2) Until the prior service liability contribution is no longer required, the normal contribution shall be determined as such annual amount payable during the member's period of service while under the system required to provide the retirement allowances due to such service not provided by the member's contributions. After the prior service liability contribution is no longer required, the normal contribution shall be determined as such annual amount payable during the members' periods of service under the system required to provide the difference between the total liabilities for retirement allowances not provided by members' contributions and the amount of the assets in the retirement allowance account.

(3) The prior service liability contribution shall be such annual amount required to provide for the liquidation, within thirty years of July 1, 1958, of the liability for retirement allowances due to prior service with the employer. The unfunded prior service liability at any particular time shall be the excess, if any, of the then present value of the retirement allowances due to prior service over the total accumulated prior service liability contributions previously made with interest on such contributions at the rates of interest earned each year on the assets of the system.

(4) Normal contributions and the prior service liability contributions shall be determined on actuarial bases adopted by the board.

Such contributions shall be determined by the board after each valuation and shall continue in force until a new valuation is made.

(5) The board shall furnish to the employer prior to the beginning of each fiscal year its best estimate of the normal contributions, the prior service liability contributions and the expenses of administering the system as provided in Sections 28 to 39 of this Act necessary to meet the provisions of this Act during the fiscal year next following. The estimated amount so furnished shall be included in the budget for the county and the county shall make available to the board sufficient funds to provide actual amounts necessary for contributions and expenses.

(6) The aggregate employer contributions payable into the retirement allowance account shall be at least sufficient, when combined with the amount then held in the account, to provide the benefits payable from such account during the current year.

Section 13. Fund assets; how held, credited. All of the assets of the system shall be held and invested in the County Employes Retirement Fund and credited, according to the purpose for which they are held, to one of two accounts, namely, the members' contribution account, and the retirement allowance account.

Section 14. Members' contribution account. (1) The members' contribution account shall be the account to which all members' contributions and interest allowances as provided in Sections 1 to 39 of this Act shall be credited. From this account shall be paid the accumulated contributions of a member required to be returned to him upon withdrawal, or paid in the event of his death before retirement.

(2) The County Treasurer shall, at the end of each payroll period, forward to the board an amount equal to the aggregate amount of the deductions made for the preceding payroll period from the salaries of all members. The County Treasurer shall forward a record of all such transfers to the board.

(3) Each member's contribution provided for in Section 11 of this Act shall be credited to the individual account of the contributing member.

(4) Each individual account of the members' contribution account shall be credited annually with interest at that rate determined by the board but not less than two per centum per annum on the accumulated contributions of the member; provided, however, that interest shall accrue on any such contribution beginning at the end of the fiscal year in which each such contribution was made. Such amounts so credited shall be transferred from the retirement allowance account.

(5) Upon the retirement of a member, his accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.

Section 15. Retirement allowance account. The retirement allowance account shall be the account in which shall be accumulated all employer contributions, amounts transferred from the members' contribution account, and to which all income from the invested assets of the system shall be credited. From this account shall be paid the expenses of the board in administering the system, retirement allowances and any other benefits payable after a member's retirement and from this account shall be transferred to the members' contribution account the interest credited annually to each member's individual account as provided by this Act.

Section 16. Deposits. For the purpose of meeting disbursements for retirement allowances and other payments, there may be kept available cash, not exceeding seven and one-half percent of the total amount in both accounts of the system, on deposit in one or more banks or trust companies that are designated by the County Treasurer as depositories for funds of the county. The members of the board shall not be liable for any loss sustained as to such funds that are on deposit in such banks or trust companies.

Section 17. Service retirement. (1) Any member in service at his normal retirement date may retire at that time or at any time thereafter upon written notification to the board, made by such member or his employer, setting forth at what time the retirement is to become effective, provided that such effective date shall be after his last day of service but shall not be more than ninety days prior to or subsequent to the filing of such notice.

(2) Any member who is in service on or after his fifty-fifth birthday and has completed at least twenty years of service may, upon approval by the board, retire upon written request to the board, made by the member or his employer, setting forth at what time the retirement is to become effective, provided that such effective date shall be after his last day of service and after the filing of such notice but shall not be more than ninety days subsequent to the filing of such notice.

(3) Any member having left the service after having completed at least twenty years of service as of the date of leaving service may retire under the provisions of subsection (1) of this section, or after having completed at least thirty years of service with his employer as of the date of leaving service, may retire under the provisions of subsection (2) of this section provided that he shall not have withdrawn his accumulated contributions prior to the effective date of his retirement and except that any requirements as to the member being in service shall not apply.

Section 18. Service retirement allowance. (1) Upon service retirement at normal retirement date, or subsequent thereto, a member shall receive an annual retirement allowance, payable monthly during

his lifetime, which shall consist of an amount equal to one-fourth percent of the first $1320 of final compensation multiplied by the number of years of service, plus one percent of the next $2880 of final compensation multiplied by the number of years of service, plus one and one-fourth percent of final compensation in excess of $4200 multiplied by the number of years of service.

(2) Upon service retirement prior to normal retirement date, a member shall receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced by five-twelfths percent for each 30 days that the actual retirement date precedes the normal retirement date.

Section 19. Disability retirement. Any member in service who has fifteen or more years of service may, at any time before his normal retirement date, retire on account of disability upon written notification to the board, made by the member or his employer, setting forth at what time the retirement is to become effective; provided that such effective date shall be after the last day of service but shall not be more than ninety days prior to the filing of such notice; and provided further that the examiner, after a medical examination of such member, shall certify that such member is, and has been continuously since such effective date, if prior to the filing of such notice, mentally or physically incapacitated for the further performance of duty and that such incapacity is likely to be permanent and that such member should be retired.

Section 20. Disability retirement allowances; determination. Upon disability retirement, a member shall receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability except that the amount of such annual retirement allowance shall not be less than $480.00.

Section 21. Beneficiary of disability retirement allowance, medical examination of. Once each year during the first five years following the retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the board will require such member, prior to his normal retirement date, to undergo a medical examination by the examiner. Should the member refuse to submit to any such medical examination, his retirement allowance shall be discontinued until his withdrawal of such refusal, and should such refusal continue for one year, all his rights to any further disability allowance shall cease and he shall, at the end of such one year, cease to be a member hereunder.

Section 22. Disability retirement allowance, reduction of. (1) Whenever the examiner certifies to the board that a member receiving a disability retirement allowance is, prior to his normal retirement date, engaged in gainful occupation of work paying more than the difference between the disability retirement allowances and his final compensation, the board may reduce such retirement allowance to an amount which, together with the amount earnable by him equals the amount of his final compensation.

(2) Should the examiner report and certify to the board at any time that any disabled member is able to engage in gainful occupation paying more than the difference between his retirement allowance and his final compensation at retirement, and should the board find that such member shall have refused any employment considered by the board suitable to his capacity, he shall not be entitled to any such allowance during the continuance of such refusal, unless in the opinion of the board such refusal was justified.

Section 23. Disability retirement allowance; cessation of. (1) Should a member receiving a disability retirement allowance recover from such disability at any time prior to his normal retirement date, his disability retirement allowance shall cease, and if he re-enters the active employ of an employer within thirty days after such recovery, he shall continue to be a member of the system and shall thereafter make his required contributions. Any service on the basis of which his disability retirement allowance was computed shall thereafter be counted as service and, in addition, the period of disability retirement shall be counted as service.

(2) The excess, if any, of accumulated contributions of such member as of the date of disability retirement over the disability retirement allowances received by him shall be transferred from the retirement allowance account to the members' contribution account.

Section 24. Death or withdrawal before retirement; refund of contributions in event of. If a member has ceased to be an employee other than by death or by retirement under the provisions of Sections 1 to 39 of this Act, he shall be paid, on demand, but not later than ninety days thereafter, the amount of his accumulated contributions reduced by the amount of any retirement allowances previously received by him under any of the provisions of Sections 1 to 39 of this Act.

Section 25. Death after retirement; benefits. Should a member die at any time after retirement but before receiving total retirement allowances provided in Sections 1 to 39 of this Act at least equal to his accumulated contributions as of the date of his retirement, the difference between such accumulated contributions and such total allowances shall then be payable in a lump sum to the properly designated beneficiary, if then living; otherwise, to the estate of the deceased member, unless the retirement allowance is then being paid in accordance with any of the options contained in this Act.

Section 26. Optional Benefits. (1) Each member shall have the right, with respect to paragraph (a), (b), or (c) herein, to elect to have his retirement allowance payable under any one of the options set forth in this section in lieu of the retirement allowance otherwise payable to him upon retirement under any of the provisions of Sections 1 to 39 of this Act. The amount of any such optional retirement allowance shall be the actuarial equivalent of the amount of such retirement allowance otherwise payable to him. The member shall make such an election by written request to the board and such election shall be subject to the approval of the board.

(a) A member may elect to receive an increased retirement allowance in lieu of any death benefits as provided in Section 25 of this Act.

(b) The members may elect to receive a decreased retirement allowance during his lifetime and have such retirement allowance, or one-half thereof if so designated, continued after his death to another person during the lifetime of such person. In case of such an election death benefits that might otherwise be provided in Section 25 of this Act shall not be payable upon the death of the member. This option may not be elected by a member if the social security option of paragraph (c) herein has previously been elected.

(c) If a member retires prior to his sixty-fifth birthday, he may elect to receive an increased retirement allowance up to the date he commences to receive his primary insurance benefits under Federal Social Security and a decreased retirement allowance thereafter, thereby providing a more nearly level retirement allowance when such decreased retirement allowance is added to his anticipated primary benefits under the Federal Social Security Act. The election of this option shall automatically revoke any previous election under the joint and last survivor option of paragraph (b) herein.

(2) The election by a member of any one of the options stated in this section shall be null and void if the member dies prior to retirement, and the election by a member of option (b) shall be effective only if the beneficiary is living at the effective date of the member's retirement.

(3) A member who has elected any one of the options stated in this section may, at any time prior to the later of the effective date of the member's retirement or the date of written notification to the board of retirement of the member, revoke such an election by written notification to the board.

(4) If any service or disability retirement allowance provided in Sections 17 through 27 of this Act is less than $20.00 a month, the board may at its discretion pay the actuarial equivalent of such allowance in any other manner agreed on by the member and the board.

Section 27. Should a member die at any time before retirement, the amount of his accumulated contributions, reduced by the amount of any retirement allowances previously received by him under any of the provisions of Sections 1 to 39 of this Act, shall be payable in a lump sum to the properly designated beneficiary, if then living; otherwise, to the estate of the deceased member; provided, however, that if the member is in service at time of death and is eligible to retire on benefits payable as provided in Section 17 (1) and (2) of this Act, and has on file with the board at the time of his death a written designation of beneficiary, then said beneficiary shall receive an annual benefit payable monthly which shall be equal in amount to the benefit that would have been paid had the member retired immediately prior to his date of death and elected option (b) (100%) as provided in Section 26 so that the retirement allowance (not one-half thereof) shall be continued during the lifetime of the beneficiary. Nomination of beneficiary may be changed by the member at any time prior to retirement by written designation signed by a member in such manner and on such forms as shall be required by the board. Such change shall be effective on the day such designation is received by the board.

Section 28. Board to administer system. (1) The system shall be administered by a Board of Trustees, which shall organize and begin to function at Frankfort, Kentucky, on or prior to the effective date of this Act, and shall meet monthly thereafter in Frankfort at such time and place as may be determined by the board. Said board shall consist of five persons appointed by the Governor who shall serve for terms of four years, except that one member of the first board shall be appointed for a term of one year, one member for a term of two years, one member for a term of three years and two members for a term of four years.

(2) Board members who are not residents of Frankfort shall receive a salary of $25.00 per day for each day they are in session or are on official duty. All board members shall receive per diem expenses as established by the board.

(3) The board shall elect a chairman and vice chairman. A majority of the members shall constitute a quorum, and all actions taken by the board will be by affirmative vote of a majority of the entire board. All vacancies on said board shall be filled by appointment for unexpired terms by the Governor.

(4) The board shall:

(a) Appoint an executive secretary, who shall be the secretary and the administrative officer of the board;

(b) Appoint such other employes as it deems necessary and fix the compensation for all employes of the board;

(c) Require such employes as it thinks proper to execute bonds for the faithful performance of their duties;

(d) Establish a system of accounting;

(e) Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of this Act, that it deems necessary or proper in order to carry out the provisions of this Act; provided that the Governor, by Executive Order, for administrative convenience and economy, may transfer the administrative functions of the board to any departments or agencies of state government.

(5) All employes of said board shall serve during its will and pleasure.

(6) The board may employ its own attorney and legal adviser and pay a reasonable fee for his services.

(7) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets and liabilities. All its proceedings and records shall be open for inspection by the public.

(8) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board in the administration of the system during any fiscal year shall not exceed $10,000, or two percent of the total employer and member contributions during such fiscal year, whichever is the larger.

Section 29. Investments; board to be trustee. (1) The board shall be the trustee of the several funds created by Sections 1 to 39 of this Act, and shall have full power to invest and reinvest such funds, subject to the limitation that no investment shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state. Subject to such limitation, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of, any of the securities or investments in which any of the funds created herein have been invested, as well as the proceeds of such investments and any monies belonging to such funds.

Section 30. Interest in investments by members of the board prohibited. No member of the board shall have any interest, direct or indirect, in the gains or profits of any investment made by the board, save insofar as any such member may be a member or beneficiary of the retirement system. No member of the board shall, directly or indirectly, for himself or as an agent, in any manner use the funds or deposits of the retirement system, except to make such payments therefrom as are authorized by the board; nor shall any member of the board become an endorser or surety or in any manner an obligor for monies loaned by or borrowed from the board.

Section 31. State Treasurer to be fiscal officer of board. The State Treasurer shall be the custodian of the fund created by this Act and he shall be responsible on an official surety bond for all cash and securities in his custody. All registered securities in the fund created by this Act shall be registered in the name "County Employes Retirement System" and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signature of the State Treasurer, and securities shall be delivered by him when directed so to do by resolution of the board. All payments from said fund shall be made by him on warrants issued upon orders signed by such person as is designated for the purpose by the board. A duly attested copy of a resolution of the board designating such person and bearing on its face the specimen signature of such person shall be filed with the Commissioner of Finance as his authority for issuing warrants upon such orders. No order shall be signed unless it has previously been authorized by the board, which authorization shall be recorded on the records of the board.

Section 32. Medical examiners, employment of, duties. The board shall, from time to time, employ one or more physicians, practicing in the state and not members of the system, upon such terms and conditions as it may prescribe, whose duty it shall be to pass upon all medical examinations required under Sections 1 to 39 of the Act or by the board, and to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to such person under Sections 1 to 39 of this Act, and shall report in writing to the board his conclusions and recommendations upon all matters referred to him.

Section 33. Actuarial bases, adoption of, investigations, valuations. As soon as practicable after its organization, the board shall adopt such actuarial tables as are necessary for the administration of the system and for the annual determination of assests and liabilities of the system. At least once in each five-year period, the board shall cause an actuarial investigation to be made of all the experience under the retirement system . Pursuant to such investigation the board shall, from time to time, revise the actuarial tables previously adopted by the board and shall thereupon revise the bases of the rates of contributions required under Sections 1 to 39 of this Act. All such investigations and evaluations must be certified to the board by a Fellow of the Society of Actuaries.

Section 34. Employer to prepare and furnish records; inform employe of duties and obligations. The employer shall prepare such records and, from time to time, shall furnish such information as the board may require in the discharge of its duties. Upon employment of a member, the employer shall inform the member of his duties and obligations in connection with the system as a condition of employment.

Section 35. Acceptance of employment under system; significance. Every member shall be deemed to consent and agree to any deduction from his compensation required by Sections 1 to 39 of this Act and to all other provisions thereof.

Section 36. Correction of errors in records; erroneous payments. Should any change or error in records result in any member or beneficiary receiving from the system more or less than he would have been entitled to receive had the records been correct, then on discovery of any such error the board shall correct the same, and as far as practicable shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which the member or beneficiary was correctly entitled shall be paid.

Section 37. Retirement allowances exempt from taxation, execution and assignment. All retirement allowances and other benefits accrued or accruing to any person under the provisions of Sections 1 to 39 and the accumulated contributions and cash securities in the funds created under Sections 1 to 39 of this Act, are hereby exempted from any state, county, or municipal tax, and shall not be subject to execution, attachment garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court.

Section 38. Alteration, amendment or repeal. (1) The General Assembly of the Commonwealth of Kentucky reserves the right to alter, amend or repeal any provision of Sections 1 to 39 of this Act or any application thereof to any person; provided, however, that the amount of benefits which at the time of any such alteration, amendment or repeal shall have accrued to the extent provided under subsection (3) of this section for the members or beneficiaries shall not be affected thereby.

(2) If the General Assembly repeals the provisions of Sections 1 to 39 of this Act, the board shall continue to administer the system in accordance with the provisions of Sections 1 to 39 of this Act for the sole benefit of the then members, any beneficiaries then receiving retirement allowance, and any future persons entitled to receive benefits under one of the options provided for in Sections 1 to 39 who are designated by any of said members.

(3) In the event of repeal as provided in subsection (1) of this section the assets of the system shall be allocated by the board in an equitable manner to provide benefits for the persons designated in subsection (2) of this section in accordance with the provisions of Sections 1 to 39 of this Act, but based on years of service and final compensation as of the date of repeal and in the following order:

(a) For the benefit of the then members to the extent of their individual account in the members' retirement allowance account.

(b) If any funds remain, then for the benefit of the then beneficiaries and persons already designated by former members who are then beneficiaries under one of the options provided for in Sections 1 to 39 to the extent and in proportion of the then actuarial value of their retirement allowances.

(c) If any funds remain, then for the benefit of members and persons, if any, designated by members under one of the options provided for in Sections 1 to 39 of this Act, to the extent not provided under paragraph (a) herein of, and in proportion to, the then actuarial value of their accrued retirement allowances.

(4) In the event the assets at the date of repeal are insufficient to provide all of the benefits of paragraph (a) or (b) of subsection (3), or both, then each employer will contribute to the assets from time to time, as and when required, the amount necessary to make up such insufficiency.

(5) The allocation of assets of the system provided for in subsection (3) of this section shall be carried out through the payment by the board of the benefits provided for in this section as they become due, or by the transfer of such assets to any retirement system replacing this system, provided that such vesting of benefits in the members or beneficiaries as are provided by this section shall be fully maintained under such new retirement system. Any funds remaining in the assets of this system after all of the vested benefits provided by this section have been paid shall revert to the employer.

(6) Any allocation of assets made in accordance with the provisions of this section shall be final and binding on all persons entitled to benefits under said provisions.

Section 39. False statements, falsification of records, penalty. Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of the system in any attempt to defraud the system shall, upon conviction thereof, be punished by fine not exceeding $1,000 or imprisonment not exceeding twelve months or both.

**SB 281**: AN ACT relating to Confederate pensions.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 206.030 of the Kentucky Revised Statutes is amended to read as follows:

No person shall be entitled to the benefits of this chapter who:

(1) Is able to earn a support by manual labor or by reason of his knowledge, art, or skill, in any profession, trade or craft;

(2) Removes from this state or is absent therefrom for a period of three months;

(3) Possesses property of the value of $2,500;

(4) Possesses an income to the amount of or equivalent to $300 a year; or who is living with his wife who possesses property in fee simple or a life interest of the value of $2,500, or an income of $300 per year;

(5) Is suitably provided with support by reason of a contract or agreement with a person able to provide such support; or

(6) By reason of combined partial ability to earn a support and income and property, or any and all of these combined is able to obtain an income equivalent to $300 a year.

Provided, however, that no pension received from the United States or any state or foreign government or any other source shall be figured in the computation of income under this chapter.

Section 2. Whereas many widows of Confederate veterans, by administrative decision, are deprived of their Confederate pension under this chapter because of receipt of Old Age Assistance, Old Age and Survivors' Insurance and other payments presently considered to be pensions, and in order that these widows of Confederate veterans may be paid without undue delay so as to alleviate hardship, an emergency is declared to exist and this Act shall take effect upon its passage and approval by the Governor.

**SB 290:** AN ACT relating to the Legislative Research Commission.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

The Legislative Research Commission may prescribe reasonable fees for general distribution of its publications. All such fees paid to the Commission and not expressly required to be placed in other funds shall be placed in the State Treasury to the credit of a revolving, trust or agency fund account for use by the Legislative Research Commission in publishing its reports.

**SB 291:** AN ACT relating to the publication of administrative regulations.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. A new section of Chapter 13 of the Kentucky Revised Statutes is created to read as follows:

No state agency other than the Legislative Research Commission shall publish administrative rules or regulations unless the rules or regulations are enclosed in a booklet or binder on which the words "Informational Copy" are clearly stamped or printed.

Section 2. Section 156.070 of the Kentucky Revised Statutes is amended to read as follows:

(1) The State Board of Education shall have the management and control of the common schools, public vocational education and vocational rehabilitation, West Kentucky Vocational School, and the Kentucky School for the Blind.

(2) The State Board of Education may, on the recommendation and with the advice of the Superintendent of Public Instruction, prescribe, print, publish and distribute at public expense such rules,

regulations, courses of study, curriculums, bulletins, programs, outlines, reports and placards as it deems necessary for the efficient management, control and operation of the schools under its jurisdiction. All rules and regulations published or distributed by the board shall be enclosed in a booklet or binder on which the words "Informational Copy" shall be clearly stamped or printed.

(3) In its capacity as a board of control for the West Kentucky School, the board may receive by any legal mode of conveyance, and hold and enjoy, property of any description.

Section 3. Section 317.360 of the Kentucky Revised Statutes is amended to read as follows:

(1) A copy of regulations promulgated by the board shall be provided the owner, supervisor or manager of every licensed shop and school. The owner, supervisor or manager shall display it in a conspicuous place in each shop or school.

(2) All rules and regulations published or distributed by the board shall be enclosed in a booklet or binder on which the words "Informational Copy" shall be clearly stamped or printed.

**SB 213:** AN ACT relating to watershed conservancy districts.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

If it appears that contiguous territory within an established district would be better served by the organization of a separate district, a petition for withdrawal and formation of a new district may be filed with the board of supervisors by twenty-five or more landowners, or a majority if less than fifty landowners are involved. The petition shall define the boundary involved, state that all obligations to the district have been met, and contain such other information as is necessary for a determination of the feasibility or non-feasibility of such withdrawal and reorganization. Filing of petition and further proceedings shall be governed by KRS 262.715 to 262.735, as far as practicable.

**SB 212:** AN ACT relating to water conservancy.

WHEREAS, the rapid increase in consumptous use of water coupled with drought cycles and ever supply, make apparent the need for establishment of a sound policy relating to the proper use and management of the surface water resources of the Commonwealth;

WHEREAS, the changing wants and constantly increasing needs of the people as well as new problems, methods, and remedial programs require continuous study if the water resources of the Commonwealth are to be put to beneficial uses to the extent of which they are most reasonably capable and therefore the waste and unreasonable use of water prevented; and

WHEREAS, a careful and comprehensive study should be made before enacting further remedial legislation;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. There shall be created within the Division of Flood Control and Water Usage of the Department of Conservation a water resources study commission whose function it will be to make continuous study of data from other existing state agencies and such other sources as may be available, pertaining to the findings of fact and policy of the Legislature as expressed in KRS 262.670; and to formulate a comprehensive law, and amendments thereof from time to time, to attain the maximum beneficial use of the water resources of the Commonwealth.

Section 2. The water resources study commission shall be composed of the Director of the Division of Flood Control and Water Usage, who shall be ex-officio chairman of the Commission, and four other members representing the subject interests of industry, agriculture, municipalities and recreation to be appointed by the Governor. Appointive members shall serve at the pleasure of the Governor without compensation but shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties.

Committee Substitute for **HB 133:** AN ACT relating to trial commissioners appointed by county court, and declaring an emergency to exist.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 25.280 of the Kentucky Revised Statutes is amended to read as follows:

(1) The county judge of each county may appoint one or more trial commissioners who shall hold office at the pleasure of the judge and shall discharge such judicial duties of judge of the county court and the judge of the quarterly court as may be assigned to him by the county judge. The commissioner shall report his actions to the judge for the approval or disapproval of the judge.

(2) The appointments shall be subject to the approval of the fiscal court, and the fiscal court shall not approve the appointment of more than one commissioner for each 30,000 people, or fractional part thereof, in the county. Except in counties containing a city of the first class, the fiscal court shall not approve the appointment of more than three trial commissioners.

(3) The commissioners shall possess the qualifications of a judge of the county court, except that in counties containing a city of the

first or second class, he shall be a licensed attorney. He shall receive a salary to be fixed by the fiscal court which shall not exceed the compensation of the county judge. The salary of the commissioner shall be paid in the same way the county judge is paid.

Section 2. Where as the lack of criminal jurisdiction in the justice's courts of the Commonwealth has increased the criminal dockets in county courts and quarterly courts, creating a need for trial commissioners, an emergency is declared to exist and this Act shall take effect upon its approval by the Governor.

**SB 170:** AN ACT relating to joinder of offenses charged in indictments, joinder of defendants therein, and the trial of such defendants, jointly, providing relief from prejudicial joinder and repealing Sections 126 (1), Section 127, and Section 237 of Carroll's Kentucky Criminal Code of Practice.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. *Joinder of Offenses.*—Two or more offenses may be charged in the same indictment, in a separate count for each offense, if the offenses charged are of the same or similar character or are based on the same act or transaction, or on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

Section 2. *Joinder of Defendants.*—Two or more defendants may be charged in the same indictment if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses. Such defendants may be charged in one or more counts together or separately, and all of the defendants need not be charged in each count.

Section 3. *Trial Together of Indictments.*—The Court may order two or more indictments or two or more counts in a single indictment to be tried together if the offenses, and the defendants, if there is more than one, could have been joined in a single indictment. The procedure shall be the same as if the prosecution were under such single indictment, or provide whatever other relief justice requires.

Section 4. *Relief From Prejudicial Joinder.*—If it appears that a defendant or the Commonwealth is prejudiced by a joinder of offenses, or of defendants in an indictment, or by such joinder for trial together, the Court may order an election or separate trials of counts, or grant a severance of defendants.

Section 5. Sections 126 (1), 127 and 237 of Carroll's Kentucky Criminal Code of Practice are hereby repealed in their entirety.

**SB 171:** AN ACT relating to arguments of counsel in criminal cases.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 228 of Carroll's Criminal Code of Practice is amended to read as follows:

If more than one counsel on each side argue the case, they shall do so alternately.

If more than one defendant is tried as provided in Section 127 as amended, and the parties defendant are unable to agree to the order of argument, the Court shall, in its discretion, direct how said defense arguments are to proceed.

**SB 172:** AN ACT relating to peremptory challenges allowed defendants.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 203 of Carroll's Kentucky Criminal Code of Practice is amended to read as follows:

(1) A defendant tried individually is entitled to twelve peremptory challenges in prosecutions for misdemeanor.

(2) Where two or more defendants are tried together, each defendant shall be entitled to six peremptory challenges in prosecutions for felony, and two peremptory challenges in prosecutions for misdemeanors.

Section 2. Section 198 of Carroll's Kentucky Criminal Code of Practice is hereby repealed in its entirety.

**SB 173:** AN ACT relating to peremptory challenges allowed the Commonwealth in selection of juries in criminal cases.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 204 of Carroll's Kentucky Code of Practice is amended to read as follows:

1. In prosecutions involving only one defendant, the Commonwealth shall be entitled to eight peremptory challenges in prosecutions for felony, and to three in prosecutions for misdemeanors.
2. In prosecutions where two defendants are tried together, the Commonwealth shall be entitled to twelve peremptory challenges in prosecutions for felony, and four peremptory challenges in prosecutions for misdemeanors.
3. When three or more defendants are tried together, the Commonwealth shall be entitled to four peremptory challenges, multiplied by the number of defendants in prosecutions for felony, and to two peremptory challenges, multiplied by the number of defendants in prosecutions for misdemeanors.

**SB 201:** AN ACT relating to veterans' affairs.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 36.065 of the Kentucky Revised Statutes is repealed and re-enacted to read as follows:

(1) There is created a commission to be known as the Veterans' Affairs Commission, which shall constitute an independent agency of the state government within the meaning of KRS Chapter 12. The commission shall be composed of the Lieutenant Governor, who shall act as chairman, the Adjutant General, and three members appointed by the Governor. The appointed members shall be veterans with service during time of war or hostilities wherein American troops were engaged in conflict with an armed enemy, and shall serve for terms of four years and until their successors are appointed and have qualified, except that the members of the first commission shall be so appointed that the terms of one member will be for two years, another for three years and the other for four years.

(2) The members of the commission shall receive no compensation for their services, but shall be entitled to reimbursement for their actual and necessary expenses incurred in the proper performance of their duties in or out of the Commonwealth.

Section 2. (1) The Veterans' Affairs Commission shall:

(a) Prepare in proper form, present and prosecute the claims of disabled ex-service men and women and their dependents with the United States Veterans' Administration and other federal agencies;

(b) Secure and expedite action on the claims;

(c) Keep in contact with the United States Veterans' Administration so that the status of any claim may be known at any time;

(d) Continue to survey the state to make certain that no disabled veteran or his dependents are neglected; and

(e) Perform such other duties as the commission considers necessary or desirable in the accomplishment of the purposes for which the commission was created.

(2) "Veterans" and "ex-service men and women", as used in this Section, include any individual who served on active duty during peace or war in the Armed Forces of the United States and who has received an honorable discharge from such service.

**SB 235:** AN ACT relating to the licensing, recording of liens and registration of motor vehicles.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 186.020 of the Kentucky Revised Statutes is amended to read as follows:

(1) Before the owner of a motor vehicle, other than a motor vehicle engaged in the transportation of passengers for hire operating under a certificate of convenience and necessity, may operate it or permit its operation upon a highway, the owner shall apply for registration in accordance with regulations issued by the department, except that a person who purchases a motor vehicle, or brings a motor vehicle into the Commonwealth from another state shall make application for registration within five days. The bill of sale must be in the motor vehicle during this five day period. If the owner of a motor vehicle is an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which he resides. If the owner of a motor vehicle does not reside in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which the motor vehicle is principally operated. If the owner of a motor vehicle is other than an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of either such county. The application when presented to the county clerk for registration shall be accompanied by:

(a) A bill of sale and a manufacturer's certificate of origin if the application is for the registration of a new motor vehicle; or

(b) The owner's registration receipt, if the motor vehicle was last registered in this state; or

(c) A bill of sale and the previous registration receipt, if last registered in another state where the law of such state does not require the owner of a motor vehicle to obtain a certificate of title or ownership; or

(d) A certificate of title, if last registered in another state where the law of such state requires the owner of a motor vehicle to obtain a certificate of title or ownership.

(2) After that, the owner shall register his motor vehicle on or before March 1 of each year. If, before operating such motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the department.

(3) The application and documents presented therewith shall be retained on file in the office of the clerk for a period of not less than seven years.

Section 2. Section 186.030 of the Kentucky Revised Statutes is amended to read as follows:

(1) The application form shall contain spaces for the names and post office addresses of the owner and of the lien holder as shown by chattel mortgage, or other instrument construed as such in this state, on file in the office of the county clerk in the county in which the motor vehicle is registered, and such other information as the department may require. If the motor vehicle is a truck designed for the

transportation of property, the application form shall contain space for the declared gross weight in pounds. The declared gross weight shall be the weight of the vehicle and the heaviest load that the vehicle will be used to carry at any time on the highways.

(2) The application, when completed, shall be presented to the county clerk and accompanied by the appropriate fee.

Section 3. Section 186.040 of the Kentucky Revised Statutes is amended to read as follows:

(1) Upon receiving the application and fee, the county clerk shall issue to the owner a registration receipt containing the information required by subsection (2) and a registration plate. If the department finds that there is a shortage of materials suitable for making plates, or that a substantial saving will result, it may require by regulation with the approval of the Governor that previously issued plates continue to be used for a designated period. For services performed, the owner shall pay the county clerk the sum of fifty cents for each registration in addition to the registration fee.

(2) The registration receipt shall contain the registration number, the names and post office addresses of the owner and of the lien holder as shown by chattel mortgage, or other instrument construed as such in this state, on file in the office of the county clerk and such other information as the department may require. The county clerk shall be paid a fee of sixty cents for recording each lien on the registration receipt in addition to statutory recording fees for recording the chattel mortgage, or other instrument construed as such in this state.

(3) If a motor vehicle, other than a new motor vehicle, is registered in this state under the authority of a bill of sale, registration receipt or title, the registration receipt shall show the title or the registration number and the name of the state issuing same under which the motor vehicle was last registered in addition to the other required information.

Section 4. A new section of the Kentucky Revised Statutes is created to read as follows:

(1) Whenever the owner of a motor vehicle, properly registered in this state, executes a lien thereon, he shall deliver the registration receipt to the lienor. The lienor shall, within ten days thereafter, present such receipt, together with the lien instrument and proper fees, to the county clerk of the county in which the motor vehicle is registered for recording in accordance with KRS 382.670 and KRS 186.040.

(2) The county clerk shall, within five days, mail the registration receipt with the lien recorded thereon to the owner, and shall also record the lien on the copy of the registration receipt on file in the county clerk's office.

(3) (a) When a chattel mortgage, or other instrument construed as such in this state, is assigned or discharged pursuant to the law, the owner shall present the registration receipt to the lienholder who

shall record thereon in language prescribed by the department that the lien has been assigned or discharged. The recording shall show the date thereof and shall be signed by the lienholder or his authorized agent and acknowledged before an officer authorized to administer an oath.

(b) When a discharge or assignment has been recorded on the owner's registration receipt as provided in (3) (a), the owner may present the registration receipt to the county clerk who shall record the information on the copy of the receipt which contains the lien information on file in the county clerk's office, for which services the owner shall pay the clerk a fee of twenty-five cents.

(4) For failure to present the registration receipt and record the lien instrument within the time prescribed, the lienor shall pay a penalty of two dollars to the county clerk as a prerequisite for recording the lien information on the registration receipt. The penalty, less the county clerk's commission of five percent, shall be remitted to the department.

(5) No lien executed prior to January 1, 1960, shall be recorded on the registratoin receipt issued by the county clerk.

Section 5. Section 186.170 of the Kentucky Revised Statutes is amended to read as follows:

(1) Except as provided in Section 4 of this Act, the owner shall have the receipt issued by the department through the county clerk constantly in his possession, and shall display the registration plate conspicuously upon the rear of the motor vehicle. Plates shall be kept legible at all times and the rear plate shall be illuminated when being operated during the hours designated in KRS 189.030. If the department has prescribed that plates shall continue in use, it shall each year, in addition to the registration receipt, select and give to the owner as further evidence of registration some insignia which may conveniently be attached permanently and conspicuously to the motor vehicle during each registration year. It shall be the duty of the owner to attach same in the prescribed manner and no person may operate a motor vehicle unless such insignia is so affixed upon it. The department shall have placed on said insignia either figures, letters, writing, marks, or a combination thereof, which indicate that the motor vehicle has been registered and which in conjunction with the records of the department make identity of the registrant readily ascertainable.

(2) The registration year shall be from January 1 to December 31; however, registration plates for the succeeding year may be displayed beginning December 29.

Section 6. Section 186.190 of the Kentucky Revised Statutes is amended to read as follows:

(1) Whenever a motor vehicle that has been previously registered changes ownership, the registration plate shall remain upon such motor vehicle as a part of it until the expiration of the registration year.

(2) No person shall sell or trade any motor vehicle without delivering to the county clerk of the county in which the sale or trade is made, the registration receipt issued on the motor vehicle for the current year and the bill of sale.

(3) Upon delivery of the registration receipt and the bill of sale to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of one dollar, which shall be remitted to the department. The county clerk shall thereupon issue to the purchaser a transfer of registration bearing the same data and information as contained on the original registration receipt, except the change in name and address. The seller shall pay to the county clerk a fee of one dollar for his services.

(4) If the owner junks or otherwise renders a motor vehicle unfit for future use, he shall deliver the registration plate and registration receipt to the county clerk of the county in which the motor vehicle is junked. The county clerk shall immediately return the plate and receipt to the department. The owner shall pay to the county clerk fifty cents for his services.

(5) A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.

Section 7. Section 186.200 of the Kentucky Revised Statutes is amended to read as follows:

(1) The bill of sale provided for by KRS 186.190 shall contain the date, the purchaser's name and post office address, seller's name and post office address, the occupation of each, and the information provided for in KRS 186.030 and shall be subscribed and sworn to before any officer authorized to administer an oath.

(2) No person for himself or his employe or agent or as an officer of any court, shall sell, trade, transfer or deliver any motor vehicle without at the same time making a bill of sale in triplicate and delivering two copies thereof to the county clerk. The county clerk shall retain one copy of the bill of sale and shall deliver one copy to the purchaser, together with the registration receipt or transfer of registration.

Section 8. Section 186.210 of the Kentucky Revised Statutes is amended to read as follows:

No person shall make any false statement in an application for registration, application for duplicate receipt or plate, bill of sale, registration receipt, motor number or vehicle identification number. The penalty provided for violation of this section by KRS 186.990 shall be printed prominently on every form or blank used for these purposes and furnished by the department. No person shall use, display or keep registration plates or registration receipts that do not belong, or have not been issued to him.

Section 9. Section 189.260 of the Kentucky Revised Statutes is amended to read as follows:

Every motor vehicle licensed under KRS 186.050 (3) and 186.055 shall, in addition to displaying all plates issued by the county clerk, have prominently painted on each side in letters and numerals not less than three inches in height in a color of sharp contrast to the color of their background, the gross maximum weight for which such motor vehicle was registered. Except as provided in Section 4 of this Act, the registration receipt shall be kept in the truck at all times and shall be available for inspection.

Section 10. A new section of the Kentucky Revised Statutes is created to read as follows:

No motor vehicle, not next previously registered in this state, other than a new motor vehicle sold by a dealer licensed in this state, shall be registered by the county clerk unless such vehicle shall have been inspected by a peace officer of this state. Such officer inspecting the vehicle shall make a record of inspection upon the inspection form prescribed by the department. No fee for such inspection shall be charged the applicant for registration.

Section 11. A new section of Chapter 382 of the Kentucky Revised Statutes is created to read as follows:

No instrument conveying or reserving a security interest in a motor vehicle shall be recorded until such vehicle has been properly registered. The county clerk shall record such instrument as directed in this chapter and in KRS Chapter 186.

Section 12. There is hereby appropriated to the Department of Revenue from the Road Fund for the purposes of administration of this Act the sum of $50,000.00 for the fiscal year 1959-1960.

Section 13. This Act shall become effective on January 1, 1960, except the appropriation in Section 12 shall become available July 1, 1959, to facilitate preparation of forms and procedures necessary for the administration of this Act.

**SB 280:** AN ACT relating to state lands and buildings and the financing thereof.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. A new section of the Kentucky Revised Statutes is created to read as follows:

"No state agency, except the State Property and Building Commission, shall have the power and authority to borrow money and to issue and sell revenue or other authorized bonds."

Section 2. Section 58.020 of the Kentucky Revised Statutes is amended to read as follows:

"A governmental agency acting separately or jointly with one or more of any such agency, may acquire, construct, maintain, add to and improve any public project as defined in KRS 58.010, which public project may be located within or without or partly within and partly without the territorial limits of such governmental agency or agencies and for the purpose of defraying the cost thereof may borrow money and issue negotiable revenue bonds. Any governmental agency may borrow money and issue revenue bonds under KRS 58.010 to 58.140 pursuant to an order, resolution or ordinance of its legislative or administrative body, which order, resolution or ordinance shall set forth the proposed public project, the amount of the revenue bonds to be issued and the maximum rate of interest. In every instance the order, resolution or ordinance shall provide that the public project is being undertaken under the provisions of KRS 58.010 to 58.140."

Section 3. Section 148.030 of the Kentucky Revised Statutes is amended to read as follows:

"(1) The cost of acquiring such parks and constructing improvements and facilities therein and equipping same may be defrayed by funds received from appropriations, gifts, the use of money received as fees and charges for the use of said parks and facilities, or by a combination of such sources of funds."

Section 4. Section 58.010 of the Kentucky Revised Statutes is amended to read as follows:

"As used in KRS 58.010 to 58.140, unless the context requires otherwise:

"(1) 'Public Project' means any lands, buildings or structures, works or facilities suitable for and intended for use as public property for public purposes or suitable for and intended for use in the promotion of the public health, public welfare or the conservation of natural resources, including the planning of any such lands, buildings, structures, works or facilities, and shall also include existing lands, buildings, structures, works and facilities, as well as improvements or additions to any such lands, buildings, structures, works or facilities."

"(2) 'Governmental agency' means any county, city, or other political subdivision of the Commonwealth."

Section 5. Section 56.440 of the Kentucky Revised Statutes is amended to read as follows:

"As used in KRS Chapter 56, unless the context otherwise requires:

"(1) 'Commission' means the State Property and Buildings Commission.

"(2) 'Real estate' includes lands together with improvements thereon and appurtenances thereto.

"(3) 'Building' includes any structure or improvement upon real estate of a permanent nature.

"(4) 'Building project' includes the construction, reconstruction and structural maintenance of buildings, the installation of utility services, including roads and sewers, and the purchase and installation of equipment, facilities and furnishings of a permanent nature for buildings.

"(5) 'State agency' means any state officer, department, board, commission, institution, educational institution, division, or independent agency as defined in Chapter 12 of the Kentucky Revised Statutes.

"(6) 'Department' means the Department of Finance."

Section 6. Sections 148.030 (2), 148.030 (3), 148.030 (4), 148.030 (5), 150.610 and 247.180 of the Kentucky Revised Statutes are repealed.

**SB 286:** AN ACT relating to interstate water pollution control.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The Tennessee River Basin Water Pollution Control Compact is enacted and entered into by the Commonwealth of Kentucky as a party and is of full force and effect as between the Commonwealth of Kentucky and any other state of the Tennessee River Basin Water Pollution Control District that has entered into the compact. The compact is as follows:

ARTICLE I. The purpose of this Compact is to promote effective control and reduction of pollution in the waters of the Tennessee River Basin through increased cooperation of the states of the Basin, coordination of pollution control activities and programs in the Basin, and the establishment of a joint interstate commission to assist in these efforts.

ARTICLE II. The party states hereby create the "Tennessee River Basin Water Pollution Control Commission," hereinafter referred to as the "Commission," which shall be an agency of each party state with the powers and duties set forth herein, and such others as shall be conferred upon it by the party states or by the Congress of the United States concurred in by the party states.

ARTICLE III. A. The party states hereby create the "Tennessee River Basin Water Pollution Control District," hereinafter called the "District," which consists of the area drained by the Tennessee River and its tributaries.

B. From time to time the Commission may conduct surveys of the Basin, study the pollution problems of the Basin, and make comprehensive reports concerning the prevention or reduction of water pollution therein. The commission may draft and recommend to the parties hereto suggested legislation dealing with the pollution of waters within the Basin or any portion thereof. Upon request of a state water pollution control agency, and in a manner agreed upon by such agency and the Commission, the Commission shall render advice concerning the various governments, communities, municipalities, persons, corporations or other entities with regard to particular problems connected with the pollution of waters. The Commission shall present to the appropriate officials of any government or agency thereof its recommendations relating to enactments to be made by any legislature in furthering the intents and purposes of this Article. The Commission, upon request of a member state or upon its own instance may, after proper study, and after conducting public hearings, recommend minimum standards of water quality to be followed in the several areas of the District.

ARTICLE IV. The Commission shall consist of three Commissioners from each state, each of whom shall be a resident voter of such state. The Commissioners shall be chosen in the manner and for the terms provided by the laws of the state from which they are appointed, and each Commissioner may be removed or suspended from office as provided by the law of the state from which he is appointed.

ARTICLE V. A. The Commission shall elect annually from its members a Chairman and a Vice Chairman to serve at its pleasure. It shall adopt a seal and suitable by-laws for its management and control. The Commission is hereby authorized to adopt, prescribe and promulgate rules and regulations for administering and enforcing all provisions of this Compact. It may maintain one or more offices for the transaction of its business. Meetings shall be held at least once each year. It may determine duties, qualifications and compensation for and appoint such employes and consultants as may be necessary and remove or replace them.

B. The Commission shall not compensate the Commissioners for their services but shall pay their actual expenses incurred in and incidental to the performance of their duties.

C. The Commission may acquire, by gift or otherwise, and may hold and dispose of such real and personal property as may be appropriate to the performance of its functions. In the event of sale of real property, proceeds may be distributed among the several party states, each state's share being computed in a ratio to its contributions; and in the event of dissolution of the Commission, the property and assets shall be disposed of and proceeds distributed in a like manner.

D. Each Commissioner shall have one vote. One or more Commissioners from a majority of the party states shall constitute a quorum for the transaction of business, but no action of the Commission imposing any obligation on any party state or any municipality, person, corporation or other entity therein shall be binding unless a majority of all the members from such party state shall have voted in favor thereof. The Commission shall keep accurate accounts of all receipts and disbursements, and shall submit to the Governor and the legislature of each party state an annual report concerning its activities, and shall make recommendations for any legislative, executive or administrative action deemed advisable.

E. The Commission shall at the proper time submit to the Governor of each party state for his approval an estimate of its proposed expenditures. The Commission shall subsequently adopt a budget and submit appropriation requests to the party states in accordance with the laws and procedures of such states.

F. The Commission shall not pledge the credit of any of the party states. The Commission may meet any of its obligations in whole or in part with funds available to it, from gifts, grants, appropriations or otherwise, provided that the Commission takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Commission makes use of funds already available to it, the Commission shall not incur any obligations prior to the making of appropriations adequate to meet the same.

G. The accounts of the Commission shall be open at any reasonable time to the inspection of such representatives of the respective party states as may be duly constituted for that purpose. All receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become a part of the annual report of the Commission. The Commission shall appoint an Executive Director. The Commission shall also appoint a Treasurer who may be a member of the Commission. The Executive Director shall be custodian of the records of the Commission with authority to attest to and certify such records and copies thereof under the seal of the Commission. The Commission shall require bonds of its Executive Director and Treasurer in the amount of at least twenty-five per cent of the annual budget of the Commission.

ARTICLE VI. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. In determining these amounts, the Commission shall prorate one-half of its budget among the several states in proportion to their land area within the District, and shall prorate the other half among the several states in proportion to their population within the District at the last preceding Federal census.

ARTICLE VII. A. It is recognized, owing to such variable factors as location, size, character and flow and the many varied uses of the waters subject to the terms of this Compact, that no single standard of sewage and waste treatment and no single standard of quality of receiving waters is practical and that the degree of treatment of sewage and industrial wastes should take into account the classification of the receiving waters according to present and proposed highest use, such as for drinking water supply, industrial and agricultural uses, bathing and other recreational purposes, maintenance and propagation of fish life, navigation and disposal of wastes.

B. The Commission may establish reasonable physical, chemical and bacteriological standards of water quality satisfactory for various classifications of use. It is agreed that each of the signatory states through appropriate agencies will prepare a classification of its interstate waters in the District in entirety or by portions according to present and proposed highest use, and for this purpose technical experts employed by appropriate state water pollution control agencies are authorized to confer on questions relating to classification of interstate waters affecting two or more states. Each signatory state agrees to submit its classification of its interstate waters to the Commission for approval. It is agreed that after such approval, all signatory states through their appropriate state water pollution control agencies will work to establish programs of treatment of sewage and industrial wastes which will meet standards established by the Commission for classified waters. The Commission may from time to time make such changes in definitions of classifications and in standards as may be required by changed conditions or as may be necessary for uniformity and in a manner similar to that in which these standards and classifications were originally established.

ARTICLE VIII. A. A state pollution control agency of any party state may certify to the Commission an alleged violation of the Commission's standards of quality of water entering said state. Upon such certification the Commission may call a hearing at which the appropriate state pollution agencies shall be represented. If the Commission finds a violation has occurred, is occurring or is likely to recur, it shall make recommendations as to the manner of abatement of the pollution to the appropriate water pollution control agency of the party state within which the violation has occurred, is occurring or is likely to recur. In the event that Commission recommendations made pursuant to the preceding provisions of this Article do not result in compliance within a reasonable time, the Commission may, after such further investigation if any as is deemed necessary and proper and after a hearing held in the state where a violation occurs or has occurred, issue an order or orders upon any municipality, person, corporation or other entity within said party state violating provisions of this Compact by discharging sewage or industrial wastes into the waters of the District which flow through, into or border upon any party state. Such order or orders may prescribe the date on or before which such discharge shall be wholly or partially discontinued, modified or treated or otherwise disposed of. The Commission shall give reasonable and proper notice in writing of the time and place of the hearing to the municipality, person, corporation or other entity against which such order is proposed except that when the Commission shall find that a public health emergency exists, it may issue such an order pending hearing.

In all such instances, the hearing shall be promptly held and the order shall be withdrawn, modified or made permanent within thirty days after hearing. No order prescribing the date on or before which such discharge shall be wholly or partially discontinued, modified or treated or otherwise disposed of shall go into effect upon a municipality, person, corporation or other entity in any state unless and until it receives the approval of a majority of the Commissioners from each of not less than a majority of the party states, provided that such order receives the assent of not less than a majority of the Commissioners from such state.

B. It shall be the duty of the municipality, person, corporation or other entity within a party state to comply with any such order against it or him by the Commission, and any court of competent jurisdiction in any of the party states shall have jurisdiction, by mandamus, injunction, specific performance or other form of remedy, to enforce any such order against any municipality, person, corporation or other entity domiciled, located or doing business within such state; provided, however, such court may review the order and affirm, reverse or modify the same in any appropriate proceeding brought and upon any of the grounds customarily applicable in proceedings for court review of administrative decisions. The Commission or, at its request, the Attorney General or other law enforcing official of the appropriate state shall have power to institute in such court any action for the enforcement of such order.

ARTICLE IX. Nothing in this Compact shall be construed to limit the powers of any party state, or to repeal or prevent the enactment of any legislation, or the enforcement of any requirement by any party state, imposing any additional conditions and restrictions to further reduce or prevent the pollution of waters within its jurisdiction.

ARTICLE X. A. Nothing contained in this Compact shall be construed so as to conflict with any provision of the Ohio River Valley Water Sanitation Compact or to impose obligations on any party state inconsistent with those which it has undertaken or may undertake by virtue of its membership in said Compact; provided that nothing contained in this Article shall be deemed to limit the Commission's power to set higher standards for the waters of the Tennessee River Basin Walter Pollution Control District or any portion thereof than those required for the Ohio River Valley Water Sanitation District.

B. Nothing contained in this Compact shall be deemed to give the Commission any regulatory power or jurisdiction over any aspect of pollution abatement or control within the District unless existing or future pollution of such waters does or is likely to affect adversely the quality of water flowing among, between, into or through the territory of more than one party state.

ARTICLE XI. Any two or more of the party states by legislative action may enter into supplementary agreements for further regulation and abatement of water pollution in other areas within the party states and for the establishment of common or joint services or facilities for such purpose and designate the Commission to act as their joint agency in regard thereto. Except in those cases where all member states join in such supplementary agreement and designation, the representatives in the Commission of any group of such designating states shall constitute a separate section of the Commission for the performance of the function or functions so designated and with such voting rights for these purposes as may be stipulated in such agreement; provided that, if any additional expense is involved, the member states so acting shall appropriate the necessary funds for this purpose. No supplementary agreement shall be valid to the extent that it conflicts with the purposes of this Compact and the creation of such a section as a joint agency shall not affect the privileges, powers, responsibilities or duties of the member states participating therein as embodied in the other articles of this Compact.

ARTICLE XII. This Compact shall enter into force and become effective and binding when it has been enacted by the legislature of Tennessee and by the legislatures of any one or more of the states of Alabama, Georgia, Kentucky, Mississippi, North Carolina and Virginia and upon approval by the Congress of the United States and thereafter shall enter into force and become effective and binding as to any other of said states when enacted by the legislature thereof.

ARTICLE XIII. This Compact shall continue in force and remain binding upon each party state until renounced by act of the legislature of such state, in such form and manner as it may choose; provided that such renunciation shall not become effective until six months after the effective date of the action taken by the legislature. Notice of such renunciation shall be given to the other party states by the Secretary of State of the party state so renouncing upon passage of the act.

ARTICLE XIV. The provisions of this Compact or of agreements thereunder shall be severable and if any phrase, clause, sentence or provision of this Compact, or such agreement, is declared to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any state, agency, person or circumstance is held invalid, the constitutionality of the remainder of this Compact or of any agreement thereunder and the applicability thereof to any state, agency, person or circumstance shall not be affected thereby, provided further that if this Compact or any agreement thereunder shall be held contrary to the Constitution of the United States or of any state participating therein, the Compact or any agreement thereunder shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. It is the legislative intent that the provisions of this Compact shall be reasonably and liberally construed.

Section 2. Section 220.560 of the Kentucky Revised Statutes is amended to read as follows:

(1) A three-member Interstate Water Sanitation Board is established. The members of the board shall serve as Kentucky's members of interstate water sanitation control commissions created by compacts to which Kentucky is a party, which compacts are composed of states forming a river basin, and which compacts require a three member representation from each state. The Governor shall appoint two of the board members, each of whom shall be a resident and citizen of this state. Two of the members shall be appointed for terms of four years each, and shall hold office until their successors are appointed and qualified, subject to removal at the pleasure of the Governor. The Commissioner of Health shall, ex officio, be the third member of the board. Except as otherwise provided by the respective compacts, the ex officio member may delegate to any deputy or other subordinate in his department the power to be present and participate, including the right to vote, as his representative or substitute at any meeting, hearing or other proceeding of the commissions.

(2) The membership of the first Interstate Water Sanitation Board shall be composed of the membership of the Ohio River Valley Water Sanitation Commission existing at the effective date of this Act, and the terms of the appointed members shall be effective from the date of their appointment to the Ohio River Valley Water Sanitation Commission.

Section 3. The interstate water sanitation control commissions created by compacts to which Kentucky is a party, which compacts are composed of states forming a river basin, shall have all the powers provided for in the respective compacts, and all the powers necessary or incidental to the carrying out of the compacts in every particular. All officers of this state shall do all things falling within their respective provinces and jurisdictions necessary or incidental to the carrying out of the compacts in every particular, it being the policy of this state to perform and carry out the compacts and to accomplish the purposes thereof. All officers, bureaus, departments and persons of and in the state government or administration of this state shall at convenient times and upon request of the respective commissions furnish the commissions with information and data possessed by them and aid the commissions by loan of personnel or other means lying within their legal powers respectively. The courts of general jurisdiction of this state shall have the jurisdiction specified in the enforcement articles of the compacts, and the Attorney General or any other law-enforcing officer of this state shall have the power to institute any action for the enforcement of the orders of the commissions. Any powers granted to the commissions by this section shall be regarded as in aid of and supplemental to and not as a limitation upon any of the powers vested in the commissions by other laws of this state or by the laws of any of the states party to any of the compacts, or by Congress, or by the terms of the compacts.

Section 4. The Governor is authorized to enter into supplementary agreements with the State of Tennessee for the regulation and abatement of water pollution in areas and river basins common to the Commonwealth of Kentucky and the State of Tennessee, and may take such supplementary action as may be necessary to make any such supplementary agreement effective as between the Commonwealth of Kentucky and the State of Tennessee.

Section 5. For the purposes of the Tennessee River Basin Water Pollution Control Compact, the sum of $1,100 is appropriated out of the General Fund for the fiscal year 1958-59 and a like amount for the fiscal year 1959-60.

**SB 287:** AN ACT relating to the criminal code of practice.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. For the purpose of improving criminal practice and procedure in the courts of the Commonwealth, there shall be a Criminal Code Committee composed of the Chief Justice of the Court of Appeals or a member of the Court designated by him, two circuit judges, a member of the faculty of each of the law schools in the Commonwealth, two attorneys associated with the prosecution of criminal cases and two attorneys experienced in the defense of criminal cases, the last eight members to be appointed by the Governor to serve for a term of two years. The members of the committee shall receive no compensation for their services but shall be reimbursed for necessary travel expenses incurred in connection with their services on the committee.

Section 2. With the advice and assistance of the Criminal Code Committee the Legislative Research Commission shall make a comprehensive study of the Kentucky Code of Practice in Criminal Cases and shall formulate and execute such plans and policies for the simplification, clarification and revision of the Code as may appear necessary and proper, including the transposition of general procedural rules from the Kentucky Revised Statutes to the Code and matters of substantive law from the Code to the Kentucky Revised Statutes. In such revision the rights of defendants shall not be abridged, enlarged or modified, but procedure shall be simplified and strengthened so as to provide for fair and forceful prosecution by the Commonwealth.

Section 3. The Commission with the assistance of the Committee shall prepare for submission to the next regular session of the General Assembly for legislative consideration and action its recommendations for a complete and revised code governing practice and procedure in criminal cases.

Section 4. The Reviser of Statutes is directed to publish in the next edition of the Kentucky Revised Statutes the Code of Criminal Practice; and to publish in subsequent editions all parts of the new system of criminal practice enacted as a result of the study directed by this Act.

Section 5. To carry out the purposes of this Act, there is appropriated out of the General Fund the sum of thirty thousand dollars; which shall be available during the 1958-1959 fiscal year and, without lapse, during the 1959-1960 fiscal year, for the payment of actual necessary expenses incurred by the Criminal Code Committee and the Legislative Research Commission in the performance of their functions prescribed by this Act. Payments from this appropriation shall be made on vouchers approved by the Director of the Legislative Research Commission.

**SB 300:** AN ACT relating to state archives and records.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. As used in this Act the word "records" means all books, papers, maps, photographs, and other documentary materials, regardless of physical form or characteristics, made or received by any agency of the state government in pursuance of the state law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the government or because of the informational value of data contained therein.

Section 2. The State Archives and Records Commission, hereinafter referred to in this Act as the commission, is hereby created and shall be a nine member body constituted as follows: Three members appointed by the Governor from the state-at-large, one member appointed by the Governor from a list of three persons submitted by the President of the University of Kentucky, one member appointed by the Governor from a list of three persons submitted by the President of the University of Louisville, one member appointed by the Governor from a list of five persons with one name submitted by each of the Presidents of the State Colleges, the Attorney General of the Commonwealth, and one each appointed by the Governor from a list of three persons submitted by the Kentucky Historical Society and the Filson Club respectively; provided that three of the initial appointments under this Act shall be for a term of four years, and two appointments each shall be for terms of three, two, and one years, respectively. The Governor shall designate, a Chairman from among the commission membership. Vacancies shall be filled by the Governor in the same manner as initial appointments are made. All members shall serve for a term of four years. The commission shall appoint a Director of the Archives and Records Service, hereinafter referred to as the director, who shall act as secretary. The director shall not be a member of the commission nor shall he have a right to vote on commission measures. The director shall serve at the pleasure of the commission.

Section 3. Members of the commission shall serve without compensation other than actual expense of attending meetings of the commission or while in the performance of their official duties in connection with the business of the commission.

Section 4. The commission shall meet in the City of Frankfort, but the commission may, by majority vote, hold special or regular meetings in other locations when the work of the commission would be facilitated thereby. The commission shall hold not less than four meetings during each calendar year and may hold such special meetings as may be necessary to transact the business of the commission. All meetings shall be called by the director when directed by the chairman, or when requested in writing by any two members of the commission.

Section 5. (1) The commission shall establish:

(a) procedures for the compilation and submission to the Archives and Records Service of lists and schedules of public records proposed for disposal,

(b) procedures for the disposal or destruction of public records authorized for disposal or destruction, and

(c) standards for the reproduction of public records by photographic or microphotographic process,

(d) procedures for collection and distribution by the central depository of all reports and publications, except the Kentucky Revised Statutes editions, issued by any department, board, commission, officer or other agency of the Commonwealth for general public distribution after July 1, 1958.

(2) The director shall enforce the provisions of this Act by appropriate rules and regulations.

(3) The commission shall publish the rules and regulations adopted under authority of this Act at least once in each biennium in the official journal, and make copies of such rules and regulations available to all officials affected by this Act subject to the provisions of Chapter 13 of the Kentucky Revised Statutes.

(4) It is intended that such rules and regulations be drawn in cooperation with the various state agencies and subdivisions. Such rules and regulations when approved by the commission shall be binding on all state and local agencies. The commission shall perform any acts deemed necessary, legal and proper to carry out the duties and responsibilities imposed upon it pursuant to the authority granted herein.

Section 6. In order for proper planning to be accomplished, the commission shall cause a records management survey to be conducted in accordance with the regulations issued by the commission.

Section 7. The commission is authorized to make continuing surveys of government records and records management and disposal practices and to obtain reports thereon from state and local agencies; to promote, in cooperation with the various state and local agencies, improved records management practices and controls in such agencies, including the central storage or disposition of records not needed by such agencies for their current use; and to report to the Governor semiannually. The commission shall submit a biennial report to the General Assembly.

Section 8. The Commissioner of Finance, at the request of the Commission, shall have authority to design, build, purchase, lease, maintain, operate, protect, and improve buildings or facilities, including a State Archives and Records Center Building, used for the storage of non-current records of state and local agencies. The commission shall have custody and control of all such buildings and facilities and their contents.

Section 9. There is hereby created an Archives and Records Service. A professionally qualified Director and Associate Director of the Archives and Records Service shall be appointed by the commission and shall receive such compensation for their services as is determined and fixed by the commission. The director shall have over-all administrative responsibility for the Archives and Records Service. The director may employ such personnel, purchase such equipment, and provide such facilities as may be required in the execution of the powers conferred and duties imposed upon the commission.

Section 10. The Archives and Records Service is hereby constituted the central depository for public records. It shall be the duty of all departments, boards, commissions, officers or other agencies of the Commonwealth to supply to the central depository copies of each of their reports and publications issued for general public distribution after July 1, 1958, in the number and in the manner prescribed by rule or regulation promulgated by the commission pursuant to Section 5 (1) (d) of this Act. College, university, and public libraries may be constituted depository libraries by written order of the commission. The central depository shall supply copies to such depository libraries in the number and in the manner prescribed by rule or regulation promulgated by the commission pursuant to Section 5 (1) (d) of this Act.

Section 11. The commission may from time to time appoint advisory groups to more effectively obtain the best professional thinking of the bar, historians, political scientists, accountants, genealogists, patriotic groups, and associations of public officials on the steps to be taken with regard to any particular group or type of records.

Section 12. The commission shall, with due regard to the program activities of the state and local agencies concerned, prescribe the policies and principles to be followed by state and local agencies in the conduct of their records management programs, and make provisions for the economical and efficient management of records by state and local agencies by analyzing, developing, promoting, and coordinating standards, procedures, and techniques designed to improve the management of records, to insure the maintenance and security of records deemed appropriate for preservation, and to facilitate the segregation and disposal of records of temporary value and by promoting the efficient and economical utilization of space, equipment, and supplies needed for the purpose of creating, maintaining, storing, and servicing records.

Section 13. The commission shall establish standards for the selective retention of records of continuing value, and assist state and local agencies in applying such standards to records in their custody. The director shall notify the head of any such agency of any actual, impending, or threatening unlawful removal, defacing, alteration, or destruction of records in the custody of such agency that has come to his attention, and assist the head of such agency in initiating action through the Attorney General for the recovery of such records as shall have been unlawfully removed and for such other redress as may be provided by law.

Section 14. The commission is authorized to inspect or survey the records of any state or local agency, as well as to make surveys of records management and records disposal practices in such agencies, and shall be given full cooperation of officials and employes of agencies in such inspection and surveys; provided, that records, the use of which is restricted by or pursuant to law or for reasons of security or the public interest, shall be inspected or surveyed only in accordance with law, and the rules and regulations of the commission.

Section 15. The commission is authorized to establish an interim records center or centers for the storage, processing, and servicing of records of state and local agencies pending their deposit in the State Archives and Records Center or their disposition in any other manner authorized by law, and to establish, maintain and operate centralized microfilming, photostating, indexing, de-contamination and lamination and any other records repair and rehabilitation services for state and local agencies.

Section 16. Subject to applicable provisions of law, the director shall recommend, and the commission promulgate, rules and regulations governing the transfer of records from the custody of one state or local agency to that of another.

Section 17. The commission may empower any state or local agency, upon the submission of evidence of the need therefor, to retain records for a longer period than that specified in any approved disposal schedule, or by law, but he shall report all such actions to the commission at its next meeting for approval or disapproval.

Section 18. The commission, whenever it appears to be in the public interest, is authorized: (1) To accept for deposit in the State Archives and Records Center the records of any state or local agency or of the General Assembly that are determined by the director to have sufficient historical or other value to warrant their continued preservation; (2) To direct and effect the transfer to the Archives and Records Service of any records that have been in existence for more than fifty years and that are determined by the director to have sufficient historical or other value to warrant their continued preservation, unless the head of the state or local agency which has custody of them certifies in writing to the director that they must be retained in his custody for use in the conduct of the regular current business of the said agency; (3) To direct and effect, with the approval of the head of the originating agency, or its successor, if any, the transfer of records deposited, or approved for deposit, in the State Archives and Records Center to public or educational institutions for special research or exhibit purposes; provided that title to such records shall remain vested in the Commonwealth of Kentucky unless otherwise authorized by law, and provided further such records may be recalled after reasonable notice in writing; (4) To direct and effect the transfer of materials from private sources authorized to be received by the State Archives and Records Center by the provisions of Section 22 hereunder.

Section 19. The commission shall be responsible for the custody, use, and withdrawal of records transferred to it. All papers, books, and other records of any matters so transferred are public records and shall be open to inspection by any interested person subject to reasonable rules as to time and place of inspection established by the commission; provided that whenever any records, the use of which is subject to statutory limitations and restrictions, are so transferred, the commission shall enforce such limitations. Restrictions shall not remain in effect after the records have been in existence for fifty years.

Section 20. The commission shall make provisions for the preservation, management, repair and rehabilitation, duplication and reproduction, description, and exhibition of records or related documentary material transferred to it as may be needful or appropriate, including the preparation and duplication of inventories, indexes, catalogs, and other findings, aids or guides facilitating their use.

Section 21. The director shall make such provisions and maintain such facilities as he deems necessary or desirable for servicing records in his custody that are not exempt from examination by statutory provisions or other restrictions.

Section 22. The commission is authorized, whenever it is deemed to be in the public interest, to accept for deposit: (1) The papers and other historical materials of any Governor of the Commonwealth of Kentucky, or of any other official or former official of the state or its subdivisions, and other papers relating to and contemporary with any Governor or former Governor of Kentucky, subject to restrictions agreeable to the commission and the donor; (2) Documents, including motion picture films, still pictures, sound recordings, maps, and papers, from private sources that are appropriate for preservation by the State government as evidence of its organization, functions, policies, and transactions or those of its subdivisions.

Section 23. The commission may charge a fee not in excess of 10 percent above the costs or expenses for making or authenticating copies or reproductions of materials transferred to its custody. All such fees shall be paid into a revolving fund for the continuation of such services on as self-sustaining a basis as possible. There shall be no charge for making or authenticating copies or reproductions of such materials for official use by the government of the Commonwealth of Kentucky; provided, that reimbursement may be accepted to cover the cost of furnishing such copies or reproductions that could not otherwise be furnished.

Section 24. The head of each state or local agency shall cause to be made and preserved records containing adequate and proper documentation of the organizational functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish information necessary to protect the legal and financial rights of the government and of persons directly affected by the agency's activities.

Section 25. Unless otherwise provided by law, all papers, books, and other records of any matters required by law or administrative rule to be kept by any agency, and all records arising from the exercise of functions authorized thereby, are public records and shall be open to inspection by any interested person subject to reasonable rules as to time and place of inspection established under KRS 12.080. A certified copy of any public record, subject to any such rules in effect, shall be furnished by the custodian thereof, and any person requesting it, upon the payment of such reasonable fee therefor as may be prescribed by law or by administrative rule.

Section 26. (1) Whenever the Governor, Lieutenant Governor or any state agency or subdivision or the principal officer thereof, shall have, either in whole or in part, any records or papers photographed, photostated, microphotographed, microfilmed or filmed and preserved for record in accordance with rules and regulations promulgated by the commission the original thereof may be disposed of or destroyed.

(2) Any such reproductions shall be deemed the originals of the records or papers for all purposes, and any facsimiles, certified copies or reproductions thereof, or any prints or enlargements of the reproductions shall be admissable as evidence in any court or proceeding of this Commonwealth, and shall be prima facie evidence of the facts set forth in and the contents of the original records or papers.

Section 27. Subject to rules and regulations promulgated by the commission, any state agency or subdivision may, upon a finding by the principal officer thereof that public records maintained by it are of no further value, destroy or otherwise dispose of said records. Where such destruction or other disposition is not governed by rule or regulation of the commission, approval of the commission shall be secured prior to the destruction or other disposition of the records.

Section 28. The head of each state and local agency shall establish and maintain an active, continuing program for the economical and efficient management of the records of the agency. Such program shall provide for: (1) Effective controls over the creation, maintenance, and use of records in the conduct of current business; (2) Cooperation with the Archives and Records Service in applying standards, procedures, and techniques designed to improve the management of records; (3) Promotion of the maintenance and security of records deemed appropriate for preservation, and facilitation of the segregation and disposal of records of temporary value; (4) Compliance with the provisions of this Act and the rules and regulations of the Archives and Records Commission.

Section 29. Whenever the head of a state or local agency determines that substantial economies or increased operating efficiency can be effected thereby, he shall provide for the storage, processing and servicing of records that are appropriate therefor in the records center maintained and operated by the Archives and Records Service or, when approved by the director in such location maintained and operated by the head of such agency.

Section 30. Any official who is authorized to certify to facts on the basis of records in his custody is authorized to certify to facts on the basis of records that have been transferred by him or his predecessors to the Archives and Records Service, further provided, that any fee due any official of the State or its subdivisions shall not be eliminated by this Act.

Section 31. The head of each state and local agency shall establish such safeguards against removal or loss of records as he shall deem necessary and as may be required by rules and regulations issued under authority of this Act. Such safeguards shall include making it known to all officials and employees of the agency that no records are to be alienated or destroyed except in accordance with law, and calling their attention to the penalties provided by law for the unlawful removal or destruction of records.

Section 32. The head of each state and local agency shall notify the director of the Archives and Records Service of any actual, impending or threatened unlawful removal, defacing, alteration or destruction of records in the custody of the agency that shall come to his attention, and with the assistance of the director of the Archives and Records Service shall initiate action through the Attorney General for recovery of such records as shall have been unlawfully removed and for such other redress as may be provided by law.

Section 33. Nothing in this Act shall be construed as limiting the authority of the State Auditor, or other officers charged with prescribing accounting systems, forms, or procedures or of lessening the responsibility of collecting and disbursing officers for rendering of their accounts for settlement. Nothing in this Act shall be construed as changing, modifying or affecting the present law or laws concerning confidential records of any state agency and the use thereof. All such laws remain in full force and effect.

Section 34. The Legislative Research Commission shall, unless otherwise directed by the Senate or House of Representatives obtain at the close of each session of the General Assembly all of the noncurrent records of the General Assembly and of each committee thereof and transfer them to the State Archives and Records Center for preservation.

Section 35. Section 12.140, 12.190, 12.195, 171.350, 171.360, 171.370, and 171.380 of the Kentucky Revised Statutes are hereby repealed.

**HB 187:** AN ACT changing the classification of the City of Florence, in Boone County, Kentucky.

WHEREAS, satisfactory information has been presented to the General Assembly that the growth of the City of Florence, in Boone County, Kentucky, is such as to justify its being assigned to the third-class of cities;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That the City of Florence, in Boone County, Kentucky, is hereby transferred from the sixth to the third-class of cities.

**HB 250:** AN ACT changing the classification of the City of Glasgow, in Barren County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Glasgow, in Barren County, is such as to justify its being assigned to the third class of cities,

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That the City of Glasgow, in Barren County, is hereby transferred from the fifth to the third class of cities.

**HR 84:** A CONCURRENT RESOLUTION memorializing Congress to expedite plans for a dam on Cumberland River at Bunche's Creek in Whitley County.

WHEREAS, Whitley County in Kentucky is in poor economic condition, as shown by the fact that about one third of the population is now receiving welfare or public aid of some kind;

WHEREAS, nine of every ten of its high school and college graduates must leave for employment elsewhere, and four out of every five of other wage earners must leave the county to earn money;

WHEREAS, more than two thirds of the county's payroll comes from tax money, federal, state and local;

WHEREAS, Whitley County alone is unable to promote any endeavor to ease the situation.

WHEREAS, a dam on Cumberland River at Bunche's Creek would do the following things:

1. Furnish all needed electric power and water for new industries.
2. Aid in flood control.
3. Call for a steam generating plant to use millions of tons of coal.
4. Attract plants to use pulp wood, of which Whitley County has millions of cords.
5. Attract food processing plants to process tons of vegetables produced annually.
6. Provide a recreational area which would attract millions of dollars annually from tourists;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Congress of the United States is urged to act in the exercise of its broad legislative powers to provide a dam and necessary accessories to accomplish the desired purpose, and to cause such a program to be put into effect at the earliest possible time.

Section 2. That the Clerk of the Senate be and is hereby directed to send copies of this memorial, duly authenticated, to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, to each of the Senators and Representatives from the Commonwealth now serving in the Congress, and to the Secretary of the Interior.

**HR 85:** A CONCURRENT RESOLUTION requesting the Congress to cause the Corps of Engineers of the United States to make a survey of the Rockcastle River area.

WHEREAS, the counties of Rockcastle, Laurel, Jackson and Madison among others lying in the drainage area of the Rockcastle River and its tributaries have from time immemorial been scourged and devastated by floods;

WHEREAS, such floods have not only resulted in loss of life, but have occasioned irreparable economic damage to the area; and

WHEREAS, it appears that repeated and frequent flooding in the area accompanied inevitably by further loss of life and property can only be avoided or the such losses mitigated by a coordinated comprehensive flood control program;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Congress of the United States is urged to take such action as is necessary to insure a flood control survey by the United States Corps of Engineers on the Rockcastle River and its tributaries.

Section 2. That copies of this Resolution be sent by the Clerk of the House of Representatives of the Commonwealth of Kentucky, to each member of the Congress representing the Commonwealth of Kentucky and to the Jackson County Improvement Association, Jackson, Kentucky.

**HR 87:** A CONCURRENT RESOLUTION requesting and petitioning the United States Soil Conservation Service and the Federal Bureau of Public Roads to institute a study relative to the utilization of highway fills for water impoundment along highways.

WHEREAS, the Federal Roads Program will pass through thousands of farms and ranches in America and large fills will be necessary in crossing valleys;

WHEREAS, rights of way will have to be obtained from hundreds of farmers and ranchers for the Public Roads Program; and

WHEREAS, both the nation and the people from whom such rights of way are obtained could gain important benefits from the utilization of such fills for the impoundment of water;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein:*

That the Federal Bureau of Public Roads and the United States Soil Conservation Service be and is urged to institute a joint study to determine the feasibility of the utilization of highway fills for water impoundment along super-highways and other highways; and that if the study proves such utilization feasible, provisions be made in the Federal Bureau of Public Roads and the State Highway Department programs enabling landowners to participate in projects of impoundment of water along highway fills.

**HR 91:** A CONCURRENT RESOLUTION requesting the Kentucky Historical Society to erect a bronze plaque or marker at Greensburg Courthouse.

WHEREAS, it is the policy of the General Assembly to recognize and perpetuate the historical shrines of Kentucky;

WHEREAS, the courthouse at Greensburg, Kentucky is an honored shrine as the first courthouse in the United States west of the Allegheny Mountains;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein:*

That the Kentucky Historical Society be requested to erect a bronze plaque or marker at or on the courthouse in Greensburg, Kentucky, as a memorial to the fact that it is the oldest courthouse west of the Allegheny Mountains.

**HR 81:** A CONCURRENT RESOLUTION expressing appreciation of the General Assembly to the Temperance League of Kentucky, Incorporated and to the Reverend Walter C. House for providing programs for the Prayer-Fellowship Breakfasts.

WHEREAS, on each Wednesday morning throughout the period of the regular session of the 1958 General Assembly, members of said General Assembly have been privileged to join the Honorable A. B. Chandler, Governor of Kentucky, and the Honorable Harry Lee Waterfield, Lieutenant Governor of Kentucky, at a breakfast designated "Legislative Prayer-Fellowship Breakfast";

WHEREAS, upon many if not all of these occasions the members of the General Assembly have been entertained and edified by interesting and inspirational speakers and singers;

WHEREAS, the appearance of said speakers and singers was made possible by the Temperance League of Kentucky, Incorporated and by the Reverend Walter C. House; and

WHEREAS, it appears appropriate that the appreciation of the General Assembly be expressed to the Temperance League of Kentucky, Incorporated and the Reverend Walter C. House in such a manner as to make it known to all the citizens of the Commonwealth,

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the appreciation of the General Assembly of the Commonwealth of Kentucky be and is hereby expressed to the Temperance League of Kentucky, Incorporated and the Reverend Walter C. House for their efforts, individually and collectively, in presenting, at the Prayer-Fellowship Breakfasts throughout the 1958 session of the General Assembly, programs of general interest to the members of the 1958 General Assembly.

**HB 149:** AN ACT relating to election expenses.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

In all counties where voting machines are used, the cost of elections shall be certified by the county treasurer to the Department of Finance in the same manner as provided in KRS 118.450, except that for each precinct where voting machines are used and so certified the sum of forty dollars shall be allowed to the counties.

**SB 246:** AN ACT relating to workmen's compensation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 342.095 of the Kentucky Revised Statutes is amended to read as follows:

*Compensation for total disability.* (1) When the injury or occupational disease causes total disability for work, the employer, during such disability, except for the first seven days thereof, shall pay the employe a weekly compensation equal to sixty-five percent of his average weekly earnings, not to exceed thirty-two dollars nor less than twelve dollars per week, such payments to be made during the period of total disability but not longer than four hundred twenty-five weeks after the date of the injury, or after the date his disability from an occupational disease began, nor in any case to exceed a maximum sum of thirteen thousand six hundred dollars. If the period of total disability begins after a period of partial disability, the period of partial disability shall be deducted from the total period of four hundred twenty-five weeks during which compensation for total disability may be payable, and the payments made on account of such partial disability shall be deducted from the maximum of thirteen thousand, six hundred dollars.

(2) In the event a disabled employe, awarded compensation under this section, thereafter earns or becomes able to earn remuneration through suitable and available employment of any type, during all or any part of his period of disability, the award of compensation

under this section shall, upon motion of any interested party, be set aside in favor of such award as the Board may make under KRS 342.110.

(3) In case of the following injuries or disabilities from occupational disease the disability shall be considered total and permanent:

(a) The total permanent loss of sight in both eyes.

(b) The loss of both feet at or above the ankle.

(c) The loss of both hands at or above the wrist.

(d) A similar loss of one hand and one foot.

(e) A similar loss of one hand and one eye.

(f) A similar loss of one foot and one eye.

(g) A disability to the spine, resulting in permanent and complete paralysis of both arms or both legs, or of one arm and one leg.

(h) A disability to the skull resulting in incurable insanity or imbecility.

(4) The enumeration in subsection (3) is not exclusive, but in all other cases the burden of proof shall be on the claimant to prove that his injuries or disability resulting from an occupational disease have resulted in permanent total disability.

Section 2. Section 342.110 of the Kentucky Revised Statutes is amended to read as follows:

*Other permanent partial disability compensation.* (1) In all other cases of permanent partial disability, including any disfigurement which will impair the future usefulness of occupational opportunities of the injured employe, or employe disabled by an occupational disease, except as provided in KRS 342.316, compensation shall be determined according to the percentage of disability, taking into account, among other things, any previous disability, the nature of the physical injury or disfigurement, the occupation of the injured employe and age at the time of injury or at the time the disability from an occupational disease began. In no event shall compensation for an injury or disability to a member exceed the amount allowable for the loss of such member. The compensation paid therefore, except as provided in subsection (2) hereof, shall be sixty-five percent of the average weekly earnings of the employe but not less than twelve dollars nor more than twenty-seven dollars, multiplied by the percentage of disability caused by the injury or occupational disease, for such period as the board determines, not exceeding four hundred weeks nor a maximum sum of ten thousand, eight hundred dollars. Whenever the weekly payments under this section would be less than twelve dollars per week, the period may be shortened and the payments correspondingly increased to that amount. Where compensation, except as provided in KRS 342.020 and 342.030, is paid under any other provision of this chapter, the period during which such other compensation is paid shall be deducted from the maximum period which may be paid under this section.

(2) In case an employe, who has been awarded compensation for disability from an injury or an occupational disease, is able to perform work during all or any part of the period of such disability, the weekly compensation payable to such employe shall be equal to sixty-five percent of the difference between his average weekly earnings before the disability from the injury or occupational disease, and the weekly earnings that he earns, or is able to earn, in some suitable and available employment during such period of disability, multiplied by the percentage of disability caused by the injury or occupational disease, not to exceed the maximum weekly compensation payment provided in subsection (1) hereof. If the weekly earnings received during the period of such disability result from the employe's efforts in self-employment, or are received from an employer other than the employer in whose employment the disability from an injury or occupational disease resulted, it shall be the responsibility and obligation of the disabled employe to report said earnings promptly each week to the employer or insurance carrier by whom compensation payments are made. If any disabled employe fails to report weekly earnings during the period of such disability, the employer or insurance carrier, by whom compensation payments are made, shall be entitled to recover any excess payments made to the employe as a result of the employe's failure to report such weekly earnings.

Section 3. Section 342.140 of the Kentucky Revised Statutes is amended to read as follows:

*Average weekly earnings; methods of computation.* "Average weekly earnings" of an employe disabled by an injury or an occupational disease shall be computed, except as provided in subsection (3) hereof, by using only the amounts earned in the employment in which the disabled employe was working on or immediately preceding the date on which such disability initially began, and only by one of the following methods, whichever is applicable:

(1) When the disabled employe's continuous employment with the subject employer extends over a period of one calendar year or more immediately preceding the date on which such disability initially began, the "average weekly earnings" shall be the employe's earnings during the period of fifty-two weeks immediately preceding the date on which the disability initially began, divided by fifty-two; but if the disabled employe did not work on more than seven consecutive calendar days during such fifty-two weeks period, even though not in the same calendar week, then the earnings shall be divided by number of weeks remaining after the weeks not worked have been deducted.

(2) When the disabled employe's continuous employment by the subject employer extends over a period of four or more calendar weeks, but less than a full calendar year, immediately preceding the date on which such disability initially began, the "average weekly

earnings" shall be the employe's earnings during such period of continuous employment, divided by the number weeks of continuous employment immediately preceding the date on which such disability initially began; provided, however, that the number of weeks used in computing the "average weekly earnings" may be adjusted as provided in subsection (1) hereof for periods when the disabled employe does not work on more than seven consecutive calendar days, even though not in the same calendar week.

(3) When the disabled employe's continuous employment by the subject employer extends over a period of less than four weeks immediately preceding the date on which such disability initially began, "average weekly earnings" for such disabled employe shall be determined by the average weekly amount which, during the fifty-two weeks immediately preceding the date on which such disability initially began, was being earned by a person or persons of the same grade and character employed in the same class of employment by the subject employer at the same place of employment where such disability initially began; but, if there be no other such person or persons employed by the subject employer at the same place of employment, then the determination shall be made by using the average weekly amount which, during the fifty-two weeks immediately preceding the date such disability initially began, was being earned by a person or persons of the same grade and character employed in the same class of employment in the same locality or community.

Whenever allowances of any character made to an employe in lieu of wages are a specified part of the wage-contract, they shall be deemed a part of his earnings.

Section 4. Section 342.316 of the Kentucky Revised Statutes is amended to read as follows:

*Occupational disease: defined: claim and allowance of compensation for.* (1) "Occupational Disease" as used in this chapter means a disease arising out of and in the course of the employment. Ordinary diseases of life to which the general public is equally exposed outside of the employment shall not be compensable, except where such diseases follow as an incident of an occupational disease as defined in this section.

(a) A disease shall be deemed to arise out of the employment only if there is apparent to the rational mind, upon consideration of all the circumstances, a direct causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause, and which does not come from a hazard to which workmen would have been equally exposed outside of the employment. The disease shall be incidental to the character of the business and not independent of the relationship of employer and employe. The disease need not have been foreseen or expected but, after its contraction, it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence.

(b) "Injurious exposure" as used in this section shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which claim is made.

(2) The procedure with respect to the giving of notice of disability or death, and as to the filing of claims and determination thereof in occupational disease cases, and the compensation and medical benefits payable for disability or death due to such disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter, except as hereinafter provided. Due notice of disability shall be given to the employer as soon as practicable after the employe first experiences a distinct manifestation of any occupational disease in the form of symptoms reasonably sufficient to appraise him that he has contracted such disease, or a diagnosis of such disease is first communicated to him, whichever shall first occur.

(3) The right to compensation under this chapter for disability resulting from an occupational disease shall be forever barred unless a claim is filed with the Workmen's Compensation Board within one year after the last injurious exposure to the occupational hazard or after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to appraise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within said period, unless a claim therefor be filed with the Workmen's Compensation Board within one year after such death; provided, however, that notice of such claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or, if the incurrence of the disease or the death of the employe, and its cause was known to the employer; and provided further, that where compensation has been paid or awarded, whether for disability or death from an occupational disease, and the payments have been discontinued, the claim for further compensation shall be made within one year after the last payment of compensation.

(4) In claims for compensation due to the occupational disease of pneumoconiosis it must be shown that the employe was exposed to the hazards of the disease in his employment within this state for at least two years before his disability or death.

(5) The amount of compensation payable for disability due to occupational disease or for death from such disease, and the time and manner of its payment, shall be the same as provided for accidental injury or death under the general provisions of the Workmen's

Compensation Act, except as hereinafter provided, but in no event to exceed such amounts, and, provided further, that the time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, and provided further, that in case of death where the employe has been awarded compensation or made timely claim within the period provided for in this section, an employe has suffered continuous disability to the date of his death occurring at any time within ten years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the Workmen's Compensation Act and in this section.

(6) "Pneumoconiosis" as used in KRS Chapter 342 means and includes all occupational diseases of the respiratory system which are directly or indirectly caused or brought about by the inhalation of dust or minute particles, including silicosis.

(7) An employe shall, for the purpose hereof, be deemed to have pneumoconiosis:

(a) In the first stage when it is found by the Board that the earliest detectable specific signs of pneumoconiosis are present, whether or not capacity for work is or has been impaired by such pneumoconiosis.

(b) In the second stage when it is found by the Board that definite and specific physical signs of pneumoconiosis are present, and that capacity for work is or has been impaired by that disease.

(c) In the third stage when it is found by the Board that the employe has pneumoconiosis resulting in total permanent disability, whether or not accompanied by tuberculosis of the lungs.

(8) Where compensation for pneumoconiosis is due an employe under the provisions hereof, such compensation shall be as provided in the following schedule:

(a) If the employe is suffering from pneumoconiosis in the first stage, the employe shall receive one thousand dollars as compensation in full for pneumoconiosis that he has sustained as a result of and in the course of his employment, to be payable as a lump sum or in periodic installments in the discretion of the Board, which shall be a final payment and operate as a full release by the employe for compensation and for any claim against the employer that the employe may thereafter have for pneumoconiosis, and, irrespective of whether or not the employe thereafter continues in the same employment, he shall not have the right to receive any or further compensation or make any claim because of pneumoconiosis against either an employer, an insurance carrier or the Subsequent Injury Fund, anything to the contrary in this chapter notwithstanding.

(b) If the employe is suffering from pneumoconiosis in the second stage, the employe shall receive two thousand dollars as compensation in full for pneumoconiosis that he has sustained as a result of and in the course of his employment, to be payable as a lump sum or in periodic installments in the discretion of the Board, which shall be a final payment and operate as a full release by the employe for compensation and for any claim against the employer that the employe may thereafter have for pneumoconiosis, and, irrespective of whether or not the employe thereafter continues in the same employment, he shall not have the right to receive any or further compensation or make any claim because of pneumoconiosis against either an employer, an insurance carrier or the Subsequent Injury Fund, anything to the contrary in this chapter notwithstanding.

(c) If the employe is suffering from pneumoconiosis in the third stage, the compensation shall be paid therefor in the same manner and at the same rate as is provided for permanent disability under the provisions of KRS 342.095.

(9) If an autopsy has been performed, no testimony relative thereto shall be competent unless the employer or his representative and a representative of the deceased employe shall have participated therein or been given reasonable opportunity to do so.

(10) No compensation shall be payable for occupational disease if the employe at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of such disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(11) Where an occupational disease is aggrevated by other disease or infirmity not itself compensable, or where disability or death from any other cause, not itself compensable, is aggravated, prolonged, accelerated, or in anywise contributed to by occupational disease, the compensation payable shall be reduced and limited to such proportion only of the compensation that would be payable if occupational disease were the sole cause of the disability or death as such occupational disease, as a causative factor, bears to all causes of such disability or death, such reduction in compensation to be affected by reducing the number of weekly or monthly payments or the amount of such payments as under the circumstances of the particular case may be for the best interest of the claimant or claimants.

(12) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which, under the provisions of this chapter would give right to compensation, arose, subsequent to the beginning of the first compensable disability, save only to after-born children of a marriage existing at the beginning of such disability.

(13) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of

this chapter and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury, disability or death which was the basis for such application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for such injury, disability or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the Board when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required herein.

(14) When an employe has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier.

**SB 214:** AN ACT relating to the Department of Agriculture, Labor and Statistics.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. In enacting this legislation, it is the intention of the General Assembly to provide the Department of Agriculture, Labor and Statistics with adequate funds for hiring agricultural inspection personnel so as to insure closer supervision and training of agricultural inspectors within the Commonwealth.

Section 2. For the purposes of this Act there is hereby appropriated the sum of seventeen thousand five hundred dollars out of the General Fund to the Department of Agriculture, Labor and Statistics. The sum appropriated shall not lapse at the end of the 1958-1959 fiscal year but shall be carried over into the 1959-1960 fiscal year.

**SB 148:** AN ACT relating to public education.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 156.480 of the Kentucky Revised Statutes is amended to read as follows:

If any employe of the Department of Education or the superintendent, assistant superintendent, business manager, or purchasing agent of any county or independent school district shall have any pecuniary interest either directly or indirectly in an amount exceeding twenty-five dollars per year either at the time of or after his appointment to office, in supplying any goods, property or merchandise of any nature whatsoever for which school funds are expended, or if any such person receives directly or indirectly any gift, reward or promise of reward for his influence in recommending or procuring the use of any goods, property or merchandise of any kind whatsoever for which schools funds are expended, then his office or appointment shall without further action be vacant and he shall upon conviction be deemed guilty of a misdemeanor and fined not less than fifty dollars nor more than five hundred dollars.

**SB 229:** AN ACT relating to the compensation of justices of the peace and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. In enacting legislation relating to justices of the peace, it is the intention of the General Assembly to enable justices of the peace in counties having a population of less than 250,000 to exercise criminal jurisdiction as set out in KRS 25.010, and to provide for compensation for their performance of the new duties thereby imposed upon them.

Section 2. A new section of the Kentucky Revised Statutes is created to read as follows:

(1) In counties having a population of less than 250,000 each justice of the peace shall be exclusively compensated for the performance of the duties of his office, in so far as they relate to the trial or decision of criminal cases, by a salary not to exceed $3,900 per annum, to be fixed by the fiscal court. Notwithstanding provisions of KRS 64.530, salaries for incumbent justices of the peace shall be set as soon as may be practical after passage of this Act. Salaries shall be paid, in equal monthly installments, out of the county treasury.

(2) All moneys received or collected in criminal cases on account of or resulting from the performance of the duties or the exercise of the powers incident to the office of justice of the peace, shall be reported and paid in full to the circuit clerk of the county, on or before the tenth of each succeeding month, for proper distribution to the county and state.

Section 3. WHEREAS, justices of the peace in counties not containing a population of more than 250,000 do not now exercise any criminal jurisdiction, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

**HB 29:** AN ACT concerning alcoholic beverages in relation to minors.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. In enacting this Act it is the intention of the General Assembly to place a responsibility upon minors who purchase alcoholic beverages and to punish those who contribute to the delinquency of minors.

Section 2. (1) No person under the age of twenty-one years shall purchase or possess for consumption any alcoholic beverages.

(2) No person shall purchase alcoholic beverages for, or deliver alcoholic beverages to, any person under the age of twenty-one years.

(3) Any person who violates this Act shall be fined not less than fifteen dollars nor more than one hundred dollars for each offense.

Section 3. Section 208.020 of the Kentucky Revised Statutes is amended to read as follows:

(1) The juvenile session of county court in each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has committed a public offense, except offenses involving alcoholic beverages and motor vehicles. The court shall not have jurisdiction in any prosecution of offenses involving alcoholic beverages or motor vehicles.

(2) Nothing in this chapter shall deprive other courts of the right to determine the custody of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of circuit courts over adoptions and over proceedings for termination of parental rights.

**HB 202:** AN ACT relating to social security, extending coverage to certain state schools.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 61.410 of the Kentucky Revised Statutes is amended to read as follows:

(1) In order to extend to certain employes of the Commonwealth and its political subdivisions, and interstate instrumentalities, not now members of public retirement systems, and to the dependents and survivors of such employes, the basic protection accorded to others by the Old-Age and Survivors Insurance System embodied in the Social Security Act, it is hereby declared to be the policy of the General Assembly to provide such protection to such employes, and their dependents and survivors, on as broad a basis as is permitted under the Social Security Act.

(2) Subject to the provisions of KRS 61.430 (6) and the Federal Social Security Act, as amended, and regardless of present coverage under a public retirement system, it is declared to be the policy of the General Assembly to extend the aforesaid protection to the employes of the state colleges enumerated in KRS 164.290 and to members of the instructional and administrative staffs of the Kentucky School for the Deaf, Kentucky School for the Blind, West Kentucky Vocational School, Mayo State Vocational School and the Northern Kentucky State Vocational School, and the dependents and survivors of each of them.

Section 3. Section 61.430 of the Kentucky Revised Statutes is amended to read as follows:

Consistent with the terms and conditions of KRS 61.410 to 61.500, the state agency, with the approval of the Governor, is hereby authorized to enter on behalf of the Commonwealth into an agreement with the Secretary of Health, Education and Welfare, for the purpose of extending the benefits of the Federal Old-Age and Survivors Insurance System to employes of the Commonwealth or any political subdivision thereof with respect to services specified in such agreement which constitute "employment" as defined in KRS 61.420. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration and other appropriate provisions as the state agency and Secretary of Health, Education and Welfare shall agree upon, but except as may be otherwise required by or under the Social Security Act as to the services to be covered, such agreements shall provide in effect that:

(1) Benefits will be provided for employes whose services are covered by the agreement, and their dependents and survivors, on the same basis as though such services constituted employment within the meaning of Title II of the Social Security Act;

(2) The state will pay to the Secretary of the Treasury, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages equal to the sum of taxes which would be imposed by Sections 1400 and 1410 of the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that Act;

(3) Such agreement or modification of such agreement shall be effective with respect to services performed after an effective date specified in the agreement or modification thereof but in no case prior to January 1, 1955 for cases where such agreement or modification is agreed to prior to January 1, 1958; for cases where such agreement or modification is agreed to during the years 1958 and 1959, the effective date specified in such agreement or modification shall not be earlier than January 1, 1956; and in no case prior to the first day of the calendar year in which such agreement or modification,

as the case may be, is agreed to by the Secretary of Health, Education and Welfare and the Commonwealth after December 31, 1959;

(4) All services which constitute employment and are performed in the employ of the Commonwealth by employes of the Commonwealth shall be covered by the agreement;

(5) All services which (a) constitute employment, (b) are performed in the employ of a political subdivision of the state, and (c) are covered by a plan which is in conformity with the terms of the agreement and has been approved by the state agency under KRS 61.460, shall be covered by the agreement.

(6) (a) Such agreement or modification of such agreement, as permitted under the Social Security Act, shall include all services described in subsection (4) and performed by employes in positions covered by a retirement system at the various state colleges enumerated in KRS 164.290 and members of the instructional and administrative staffs of other state schools enumerated in Section 1 of this Act, with respect to which the Governor has issued a certificate to the Secretary of Health, Education and Welfare pursuant to this section;

(b) With respect to groups embraced in subdivision (a) of this subsection the Governor shall authorize referendums and designate agencies or individuals to respectively supervise their conduct in accordance with the requirements of Section 218 (d) (3) of the Social Security Act and this subsection.

(c) Such referendum shall be conducted in conformity with the following conditions:

Each referendum shall be by secret, written ballot on the question of whether or not service in positions now covered by a public retirement system in the state college or school shall be included under the agreement between the Governor and the Secretary of Health, Education and Welfare.

An opportunity to vote in such referendum shall be given and shall be limited to all eligible employes of such state college or school;

Not less than ninety days notice of such referendum shall be given to all such employes of the state college or school;

Such referendum shall be conducted under the supervision of an agency or individual designated by the Governor;

The proposal for coverage shall be approved only if a majority of the eligible employes of the state college or school vote in favor of including services in such positions under the agreement;

(d) Upon receiving satisfactory evidence that, with respect to any such referendum, the conditions specified in this subsection and Section 218 (d) (3) of the Social Security Act have been met, the Governor shall so certify to the Secretary of Health, Education and Welfare;

(7) For the purposes of this section, employes of each of the colleges enumerated in KRS 164.290 or schools enumerated in Section 1 of this Act shall be considered a separate coverage group.

**SB 258:** AN ACT relating to forest fire protection.

WHEREAS, the timberlands of the Commonwealth, consisting of 11,500,000 acres out of a total area of 25,513,000 acres, with forest acreage in every county of the Commonwealth ranging from two to ninety-two percent, constitute one of its most valuable resources, furnishing raw products to approximately eleven hundred plants and mills in the state employing eighteen thousand persons with an annual payroll of $37,000,000, providing protection and habitat to wildlife resources and contributing more than any other factor to the success of water conservation and flood control programs;

WHEREAS, under the present law only forty-seven counties, representing 6,873,000, or approximately fifty-nine percent of the total timberland acreage, are participating in and receiving protection under the state voluntary cooperative fire protection plan; and under such law, during the last five years, 18,695 fires have occurred in non-participating counties as against seven thousand, eight hundred and sixty-five fires in participating counties;

WHEREAS, Kentucky ranks fourth in the states of the Union in number of individual timberland owners, there being 243,488 of such owners in the Commonwealth, and is the only state in region seven of the United States forest service consisting of fourteen states that does not have a state-wide forest fire control law; and

WHEREAS, forest fire prevention, detection and suppression is the concern of every county in the state and is necessary if the natural resources and general economy of the state is to be maintained;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. As used in this Act, unless the context requires otherwise:

(1) "Director" means the Director of the Division of Forestry.

(2) "Division" means the Division of Forestry.

(3) "Timberland" means any land which has enough timber or woody brush, standing or down, to constitute a fire menace to itself or adjoining lands, but does not include lands under cultivation or entirely in grass, nor land that is an isolated fire risk unless a fire on it would imperil the lands of an adjoining landowner.

Section 2. (1) It shall be the duty of the division to establish and maintain a state-wide system of forest-fire prevention, detection and suppression.

(2) The division shall formulate a plan and program subject to the approval of the Commissioner of Conservation to extend forest fire protection to all counties not now participating in the state program. The plan shall provide for the establishment of such protection in all the counties of the state on or before January 1, 1964.

Section 3. (1) Each county receiving state forest fire protection on the effective date of this Act shall repay into the division until January 1, 1959, any amounts expended in the proceeding month by the division in such county for forest fire protection, not exceeding in any one year an amount equivalent to two cents per acre of privately owned timberlands in the county, according to the United States Forest Reappraisal Study of 1945 subject to additions and deductions of acreage since the making of such study.

(2) When facilities and trained personnel are available the director may give written notice to the county judge of any county not now participating in the state protection program that such services are available for establishment. Such notice shall be given at least sixty days before January 1 of the year in which the program is to be established.

Section 4. (1) After January 1, 1959, all counties receiving state forest fire protection and all counties having received notice of the intended establishment of such service shall annually pay to the division a sum equivalent to two cents per acre of privately owned timberlands according to the United States Forest Reappraisal Study of 1948-1952, subject to additions and deductions of acreage since the making of such study. Such payments shall be due and payable on September 15 following the assessment.

(2) Contributions may be met out of the general funds of the county and in addition the fiscal court may require each owner of timberland in the county to participate directly by paying into a special county forest fire protection fund an assessment not exceeding three cents per year for each acre of timberland of which he is the owner.

(3) In any case in which the division and the governing body of any county cannot agree upon the additions or deductions to privately owned forest acreage in a particular county, or to changes in forest acreage from year to year, the question shall be submitted to the judge of the circuit court of the county by a summary and informal proceeding, in term or vacation, and a decision of the judge, certified to the governing body and to the division respectively, shall be conclusive and final.

Section 5. (1) If the county governing body requires the owners to participate, it shall determine the amount of the assessment for each acre, and shall order the assessment to be paid into the county treasury by the owners of all timberland located in the county.

(2) It shall be the duty of each owner of timberland situated in the county to list or have listed such property with the county tax commissioner within the time provided for assessing property for state and county ad valorem taxes.

(3) Timberland shall be listed by the owner of the first freehold estate therein, and it shall be listed without reference to conflicting title. The listing shall be made at the same time and in the same manner in which declarations of real property owned are made with the county tax commissioner for assessment purposes. If the owner fails to list the timberland, the county tax commissioner shall list it. The county tax commissioner shall have the power to swear witnesses in order to ascertain the person in whose name to make the list.

(4) All persons in whose name the timberland acreage is properly listed shall remain bound for the assessment, notwithstanding they may have sold or parted with it.

Section 6. The county tax commissioner shall include on the regular property tax roll an accurate record of the acreage of timberland listed in the name of each owner in the county.

Section 7. (1) When the property tax rolls are delivered to the county clerk by the county tax commissioner, as required by law, the county clerk shall compute the assessment due the county from each owner of timberland in accordance with the rate fixed by the county governing body and the amount of timberland acreage indicated on the property tax roll.

(2) The computation shall be made on the regular tax bills in such manner as may be directed by regulation of the Department of Revenue.

(3) The county clerk shall deliver these bills to the sheriff for collection as provided in KRS 133.220 (3).

Section 8. (1) The sheriff shall collect the assessment at the same time and in the same manner in which he collects the state and county ad valorem tax. He shall issue a receipt to the taxpayer, report to the county court, and make his annual and final settlements with the fiscal court at the same time and in the same manner provided by law for his report and settlement of county and state taxes.

(2) Such assessments shall become due and payable on the date, and subject to the same discounts, delinquency date, and penalties provided in KRS 134.020 for state, county and district taxes.

Section 9. A separate fund shall be maintained by the county treasurer to be known as the county Forest Fire Protection Fund. The assessments collected from each timberland owner, together with penalties, shall constitute the fund and it shall be used only for making payments to the division in accordance with provisions of Section 4 hereof.

Section 10. (1) Any person aggrieved by a listing of any portion of his property as timberland by the county tax commissioner may file a protest with the county judge, provided the protest is in writing and is made within thirty days of receipt of notice of the listing. Protest may be made on the ground that the land or any portion so listed is not timberland, or that the timberland so listed will not be benefited by the forest fire protective system then in effect, or benefited by the proposed forest fire protective system if the assessment is being made for the first time in that county.

(2) The county judge shall hear all protests properly filed. Protests shall be heard within a reasonable time after the filing thereof, and reasonable notice shall be given to the protestant and the director of the division as to the time and place of the hearing. The county judge shall have authority to issue subpoenas to compel the attendance of any witness desired by any interested party, and he shall be authorized to administer the oath to any witness.

(3) Proceedings for hearing any protest shall be summary and the findings of the county judge shall be final, and an order shall be entered either dismissing the protest or directing the proper county officials to alter their records in accordance with the findings.

Section 11. Sections 149.100, 149.110, 149.120, 149.135, 149.140, 149.150, 149.151, 149.152, 149.153, 149.154, 149.155, 149.156, 149.157, and 149.190 of the Kentucky Revised Statutes are repealed.

**SB 248:** AN ACT relating to education.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

When any teacher in the common school system transfers from one district to another, all service credits shall be transferred. Any school board which allows service credit increments shall allow such increments when earned in another district in the same manner and on the same scale as if earned in its own district.

**SB 278:** AN ACT relating to policemen's and firemen's pension funds.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 95.530 of the Kentucky Revised Statutes is amended to read as follows:

In cities of the second and third classes the board of trustees of the policemen's and firemen's pension fund shall be composed of the mayor, city treasurer, chief of the police department, chief of the fire department and one member each from the police and fire department. The members from the police and fire departments shall be elected by the respective members of those departments annually by ballot, one from each department, and shall serve for one year and until their respective successors are elected and qualified. The board shall select from their number a president and a secretary.

Section 95.540 of the Kentucky Revised Statutes is amended to read as follows:

Section 1. The board of trustees of the pension fund in cities of the second and third classes may make all necessary rules for its government in the discharge of its duties, and shall hear and decide all applications for benefits or pensions. Its decisions shall be appealable to the circuit court and the Court of Appeals. A record shall be kept of the meetings and proceedings of the board.

Section 2. The board of trustees of the pension fund shall make an annual report on the condition of the pension fund to the city legislative body, at that body's last meeting in August of each year.

Section 95.580 of the Kentucky Revised Statutes is amended to read as follows:

Section 1. The policemen's and firemen's pension fund in cities of the third class shall consist of:

(a) The proceeds of an annual tax, to be levied by the city legislative body, of not less than five cents on each one hundred dollars in value of taxable property;

(b) All rewards, fees, gifts and emoluments paid or given an account of extraordinary service of any member of the police or fire department;

(c) Assessments which the board of trustees shall make upon each member of the police and fire departments, of five percent of his salary, to be withheld from the monthly salary and paid by the city treasurer into the pension fund.

Section 2. Both the principal and interest of the pension fund shall be applicable to the payment of pensions in cities of the third class.

**SB 256:** AN ACT relating to the election of school board members.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 160.210 of the Kentucky Revised Statutes is amended to read as follows:

Section 1. In independent school districts, the members of the school board shall be elected from the district at large.

Section 2. In county school districts, the members of the school board shall be elected from the county at large. The county shall be divided into divisions; and no two members shall be residents of the same division. No change shall be made in the boundary lines of any division before January 1, 1959, except in case of merger of districts or change in territory due to annexation. All changes made in division boundaries shall be such as will make divisions as nearly equal in population and containing integral voting precincts insofar as is practical. Except in case of merger of districts or charge in territory due to annexation, no division boundary line shall be changed more often than once in each five years, and no change shall be made which will place the residence of two or more board members in the same division. A record of all changes in division lines shall be kept in the office of the county board, and shall be published in a newspaper of general circulation. No change shall be made in the boundary of any division after January 1, prior to the date on which a member of the county board is to be elected from any division.

Section 3. Nothing in this Act shall effect terms of members elected at the time this Act becomes effective.

**SB 139:** AN ACT relating to the distribution of revenue from motor truck registration fees.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 47.020 of the Kentucky Revised Statutes is amended to read as follows:

All revenue raised by the tax imposed by subsections (3) to (8) of KRS 186.050 shall be evenly distributed among all the counties, for the county road funds.

**SB 285:** AN ACT relating to motor carriers, amending subsection (1) of section 281.605 of the Kentucky Revised Statutes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Subsection (1) of section 281.605 of the Kentucky Revised Statutes is amended to read as follows:

(1) The provisions of this chapter shall not apply, except as to the safety regulations, to:

(a) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities;

(b) Motor vehicles, regardless of ownership, used exclusively:

1. For the transportation of agricultural and dairy products, including fruit, livestock, meats, fertilizer, wood, lumber, cotton, products of grove or orchard, poultry and eggs, while owned by the producer of the products, including landlord where the relation of landlord and tenant or landlord and cropper is involved, from the farm to

a market, warehouse, dairy or mill, or from one market, warehouse, dairy or mill to another market, warehouse, dairy or mill; or

2. For the transportation of agricultural and dairy products, livestock, farm machinery, feed, fertilizer, and other materials and supplies essential to farm operation, from market or shipping terminal to farm; or

3. For both the purposes described in subparagraphs 1. and 2. of this paragraph; or

4. For the transportation of agricultural and dairy products from farm to regularly organized fairs and exhibits and return;

(c) Motor vehicles used exclusively as church buses and while operated in the transportation of persons to and from a church or place of worship or for other religious work under the supervision and control and at the direction of church authorities;

(d) Motor vehicles used exclusively in transporting materials, supplies and equipment for the construction, reconstruction or maintenance of any public highways, road or street in this state;

(e) Motor vehicles used exclusively for the transportation of property belonging to a nonprofit cooperative association or its members where the vehicle is owned or leased exclusively by the association;

(f) Motor vehicles owned in whole or in part by any person and used by such person to transport petroleum products and those incidental supplies used or sold in connection with the wholesale or retail sale of such petroleum products of which petroleum products or incidental supplies, such person is the owner, lessee, consignee, or bailee; provided, however, that such transportation is for the purpose of sale, lease, rent or bailment, and is an incidental adjunct to an established private business owned and operated by such person in the furtherance of any commercial enterprise other than the business of transportation of property for hire;

(g) Motor vehicles used as a U-Drive-It only for the transportation of property operated exclusively within a city or within a city and its commercial area;

(h) *Motor vehicles used in pick-up or delivery service within a city or within a city and its commercial area for a carrier by rail.*

**SB 303:** AN ACT relating to highway improvement.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

(1) The Department of Highways may, as a part of its general maintenance program, make improvements in the form of some kind of all weather surface to be made to entrances to schools, churches, hospitals, public health buildings, and cemeteries, which are located without the corporate limits of any city or town, when in the discretion of the Commissioner the general health, safety and welfare of the

citizens of the Commonwealth will be thereby promoted. The length of such improvement shall not exceed 750 feet and the maximum expenditure shall not exceed $2,000.

(2) The provisions of this Act shall not apply to privately owned cemeteries or those owned or operated by any individual, corporation or association for profit.

**SB 161:** AN ACT relating to absent voting.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 126.140 of the Kentucky Revised Statutes is amended to read as follows:

(1) "Board" means board of election commissioners.

(2) "Absent voter" means any qualified voter who is a member of any branch or component of the armed forces, is on active duty and who expects in the course of his duties to be absent from the county in which is situated his voting precinct on the day of the holding of any election; the wife, husband, mother, father or brother of such member of the armed forces, who as a result of residence with such member expects to be absent from the county in which is situated his voting precinct on the day of holding any election; any person who is confined by illness to a hospital outside the county in which is situated his voting precinct who expects to be absent therefrom by reason of illness on the day of the holding of any election; students who are attending a school outside the county in which is situated their voting precinct and who expect, by reason of such attendance to be absent therefrom on the day of the holding of any election.

Section 126.150 of the Kentucky Revised Statutes is amended to read as follows:

Any absent voter may, at any time not less than ten days before an election, make an application in writing on the form prescribed KRS 126.160 to the board of election commissioners of the county of his residence for an absent voter's ballot. The application of an ill person, who is confined to a hospital or nursing home without the county, for an absent voter's ballot must be accompanied by a signed statement of the attending physician. The application of a student who is attending school without the county for an absent voter's ballot must be accompanied by a signed statement of the dean or a department head.

Section 3. Section 126.160 of the Kentucky Revised Statutes is amended to read as follows:

Application for absent voter's ballot shall be signed and sworn to by the absent voter before the board or before a civil officer or a commissioned officer of the armed forces authorized by law to administer an oath. The application shall be substantially in the following form:

"State of -------------, County of -------------. I, -------------, state that I am a resident of the State of Kentucky and have been such for at least one year prior to the date thereof, I am a resident of -------------- County and have been such for more than six months prior to said date and expect to be absent therefrom in the course of my business or duties at the election to be held on the ------day of ----------, 19----, and will not vote elsewhere at said election, and am a resident of -------- precinct of said county (or -------- ward of the city of --------, county of --------), and have been such for at least sixty days prior to said date: that I reside at ----------------- (house number and street address, if in city, or county road and nearest neighbor, if in county) that I will be at least eighteen years of age by the day of the next election, and that I am a duly qualified voter of said precinct (or said ward), and I am affiliated with the ---------- political party; I request that an official ballot be mailed to me at the following address:

| | |
|---|---|
| ------------------------- | ------------------------- |
| (Name and address) | (Rank and unit if member of Armed Forces) |
| ------------------------- | ------------------------- |
| (Department of United States Government if an employe or the wife of an employe stationed abroad.) | (Voter must sign here, and oath must be administered and attested.) |

"Subscribed and sworn to before me this ------ day of --------, 19----.

-------------------------

(Name and official title)"

Section 4. Section 126.170 of the Kentucky Revised Statutes is amended to read as follows:

(1) Upon receipt of any application for an absent voter's ballot the board shall cause the county clerk to examine the registration books for the purpose of ascertaining whether or not the applicant is a registered voter as stated in the application. If the county court clerk finds the applicant is so registered the board shall forward a ballot to the voter as provided in KRS 126.190.

(2) If the county court clerk does not find the applicant to be so registered and if the application does not indicate that the applicant is a member or spouse of a member of the Armed Forces, or if an employe or the spouse of an employe of the United States Government stationed abroad the board shall immediately mail a letter to the applicant, at the address stated in the application advising him that his application cannot be honored because of the fact that he is not registered, and advising him what period of time, if any, remains in which he may register prior to the election. The application shall be placed in a file marked "Nonregistered Applicants for Absent Voter's Bal-

lots." If the board thereafter and prior to the election receives notice from the applicant advising that the applicant has registered the board shall again cause the county clerk to examine the registration books and if he finds that the applicant has registered the board shall remove the application from the nonregistered applicants' file and forward a ballot as provided in KRS 126.190. Any application not so removed from the nonregistered applicants' file shall be retained in such file until thirty days after the election when they shall be burned by the board in the presence of the judge and sheriff of the county.

(3) If the application of a person found not to be registered indicates that the applicant is a member or the spouse of a member of the armed forces or an employe or the spouse of an employe of the United States Government stationed abroad, the board, upon being satisfied that the applicant is entitled to be registered, shall cause the applicant to be registered in the registration records of the proper precinct and shall cause to be marked upon such registration records the words "Absentee Registration." Such registration may be made at any time prior to the election for which application for an absent voter's ballot is made.

(4) Any person who has been registered under the provisions of subsection (1) of this section shall be required to register in person upon his first return to the county of his residence at a time when the books are open.

(5) The oath required of a member of the Armed Forces shall be taken as specified in KRS 384.080 and the oath required of a civilian employe of the United States Government or his wife stationed abroad may be taken by the persons mentioned in KRS 382.150.

Section 5. Section 126.180 of the Kentucky Revised Statutes is amended to read as follows:

The board shall prepare for each precinct a list of the names of all voters of that precinct to whom have been sent absent voter's ballots. The board shall cause such lists to be delivered to the precinct election officers of each precinct on the morning of the election prior to the opening of the polls, and the precinct election officers shall post the list in a public place at the voting place where it may be inspected by any voter. The list shall be entitled "List of Applicants for Absentee Ballots."

Section 6. Section 126.190 of the Kentucky Revised Statutes is amended to read as follows:

(1) There shall be but one book of ballots for absentee voters printed for each county, which book shall not be used for other voters. The board after such ballots have been printed shall, commencing with the first ballot in such book, write the names, addresses, and voting precincts of all who have applied for absent voter's ballots on the primary stubs of the ballots and across such stubs shall write "absent voter." In the case of primary elections the board may

use two or more such books, each of which shall contain the ballots of the political party with which the particular voter is affiliated.

(2) After having made the required entries, the board shall remove the ballots from the book, with the secondary stubs attached, and shall mail the ballots of each voter to the address given by him in his application, the ballot sent to each voter to correspond with the number on the stub on which such voter's name is written. There shall be enclosed with the ballot sent to each voter the two official envelopes for returning the ballot hereinafter provided for, and a copy of the instructions for absent voters. The ballots, envelopes and instructions shall be sent by mail, postage prepaid, and if the address of the applicant is outside the continental limits of the United States the same shall be sent by air mail.

Section 7. Section 126.200 of the Kentucky Revised Statutes is amended to read as follows:

The board of election commissioners of each county shall cause to be prepared and printed an appropriate number of outer envelopes for absent voter's ballots, which shall bear the words "Absent Voter's Ballot" and shall also bear the address and official title of the board.

Section 8. Section 126.210 of the Kentucky Revised Statutes is amended to read as follows:

The Secretary of State shall cause to be prepared and printed an appropriate number of inner envelopes for absent voter's ballots, for all counties. Each such envelope shall be gummed, ready for sealing. Upon one side of such envelope shall be printed, in substantially the following form:

OFFICIAL ABSENT VOTER'S BALLOT

Name of Voter------------------------------------------
Residence (Street and Number, if any)---------------------------
County of ---------------------------------------------
City or town of -----------------------------------------

On the other side of such envelope shall be printed the following oath: "I do hereby swear (or affirm) that I am a citizen of the United States and am now at the age of at least eighteen years or will be on the day of the election to be held on the-------------day of-------------------------, 19-----(here insert the day of the election), that I will have been a resident of the State of Kentucky for at least one year next preceding such election, and a resident of the County of------------------------for more than six months preceding such election, and a resident of-----------------precinct of said county (or--------------ward of city of---------------------, County of ----------------) at least sixty days preceding such election; that I am a duly qualified voter of said precinct or said ward, and I am affiliated with the-------------------political party; that in the course of my business or duties I expect to be absent from said precinct or ward at the time of said election.

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(Voter must sign here, and oath must be administered and attested.)

"Subscribed and sworn to before me this----------------day of --------------------, 19-----.

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(Official Title)"

Such oath shall constitute prima facie evidence that the voter is qualified to vote, unless the statements contained in such oath indicate the contrary.

Section 9. Section 126.220 of the Kentucky Revised Statutes is amended to read as follows:

The Secretary of State shall also cause to be prepared and printed an appropriate number of forms for application for absent voter's ballots, and of instructions for absent voters. The Secretary of State shall furnish, to each board, upon application, a sufficient number of inner envelopes, application forms, and instructions.

Section 10. Section 126.230 of the Kentucky Revised Statutes is amended to read as follows:

When the absent voter receives the ballot and the two envelopes, he shall go before some civil officer or commissioned officer of the armed forces authorized by law to administer an oath and before him make and subscribe to the affidavit on the face of the envelope and shall, in the presence of such officer and no one else, mark the ballot so as to indicate the way he desires to vote, but in such manner as to prevent the officer from knowing how the ballot is marked or how he has voted. He shall then, and while in the presence of the officer, fold the ballot in such way as to conceal the markings made thereon by him, and after the ballot has been so folded, he shall enclose it in the inner envelope; then seal said envelope and then enclose it in the outer envelope, along with the envelope in which he received his absent voter's ballot from the board; then seal and write his name across the face of the outer envelope, and at once mail it to the board in care of the sheriff.

Section 11. Section 126.240 of the Kentucky Revised Statutes is amended to read as follows:

Before sending an absent voter's ballot to any applicant prior to any election the board shall provide itself with one or more legal ballot boxes as may be required. The boxes shall be locked in the presence of all members of the board and each member of the board shall be delivered one of the keys to the ballot boxes. The boxes shall remain locked and the members of the board shall retain the keys in their possession until the boxes have been returned to the custody of the board following the election, and opened as provided in KRS 126.270.

Section 12. Section 126.250 of the Kentucky Revised Statutes is amended to read as follows:

(1) When the board receives an absent voter's ballot, the sheriff shall immediately stamp on the outer envelope the day and hour of its receipt. All such ballots received by it prior to the hour for closing the polls on the day of the election shall be deposited in the ballot box, provided for in KRS 126.240, without opening the outer envelope. All envelopes received by the board after the hour for closing the polls on the election day shall be kept by the board unopened until thirty days after the election, when they shall be burned by the board in the presence of the county judge and sheriff, without being opened.

(2) In the case of ballots received prior to the time the registration copy records are delivered to the precinct officers, the board shall indicate or cause to be indicated upon such copy records the fact that the voter has voted as an absentee. In the case of ballots received after the registration copy records have been delivered to the precinct officers, but before the hour for closing the polls, the board shall, within five days after the election, indicate or cause to be indicated upon the copy registration records the fact that the voter has voted as an absentee.

Section 13. Section 126.260 of the Kentucky Revised Statutes is amended to read as follows:

During the period between the time the ballot boxes provided for in KRS 126.240 have been locked and the time of their opening following the election the board shall keep the same in a secure and substantial place and keep a sufficient guard over same in a careful manner. The chairman of the county executive committee of each of the two dominant political parties, and each candidate to be voted for at the election and, in case of elections on public questions, each committee duly recognized by law as a committee entitled to challenges or witnesses to the count, may designate a person to assist the board and other guards to guard the ballot boxes.

Section 14. Section 126.270 of the Kentucky Revised Statutes is amended to read as follows:

(1) Immediately following the closing of the polls on the election day the board, before opening other ballot boxes, shall open the boxes containing absent voter's ballots, and remove the envelopes one at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope is in proper form and bears the stamp indicating that it was received prior to the closing of the polls. If the outer envelope is found to be satisfactory in these re-

spects, the outer envelope shall be opened, and the inner envelope shall be examined for the purpose of ascertaining whether the inner envelope is regular and in the form and condition required by this Act and is properly sealed, and the affidavit on the face thereof is regular and in the form required by this Act. If the inner envelope is found to be satisfactory in these respects, the secretary of the county board of election commissioners shall read aloud the name of the absent voter. If the vote of such voter is not rejected on a challenge then made as hereinafter provided, the secretary shall then open the envelope and remove the ballot therefrom without unfolding it, and in such a way as not to expose the markings thereon or how the absent voter has voted. The secretary shall write his name on the back of the ballot and then hand it to one of the members of the board of election commissioners, who shall write his name on the back of the ballot, detach the secondary stub, and then place the ballot in a regular ballot box which has been provided for the purpose.

(2) When the name of an absent voter is read aloud by the secretary, the vote of such voter may be challenged and the challenge thereto may be determined and the vote accepted or rejected by the board of election commissioners as if the voter was present and voting in person, but if the envelopes and the affidavit on the face of the inner envelope are regular, and substantially comply with the provisions of this Act, they shall be considered as showing that the absent voter is prima facie entitled to vote. If the vote of an absent voter is rejected pursuant to the challenge, the inner envelope shall not be opened, and the secretary of the board of commissioners shall write on the envelope the word "rejected." Such rejected ballots shall be handled as other rejected ballots.

(3) After the absent voter's ballots have been signed and redeposited in a ballot box, as provided in subsection (1), the box shall be thoroughly shaken so as to redistribute the ballots in the box. The board of election commissioners shall then reopen the box and count the ballots and tabulate them separately on tally sheets.

(4) The two envelopes from each ballot together with the ballots shall be retained by the board until thirty days after the election when they shall be burned in the presence of the county judge and sheriff. If a contest or recount proceeding is instituted during said thirty-day period, the ballots shall not be burned but shall be disposed of as directed by the court in which such proceeding was instituted.

Section 15. Section 126.290 of the Kentucky Revised Statutes is amended to read as follows:

The provisions of this Act shall not be construed to prohibit any absent voter, who has returned to his place of residence, from voting in person within his precinct at any election notwithstanding that he may have made application for an absent voter's ballot and such ballot has been mailed to him, if such voter has not voted the ballot and mailed it to the board. In such case the voter shall return the ballot not voted to the board from whom he received it, and the board shall mark the ballot "cancelled" and preserve it for the same period as other absent voter's documents are to be preserved. The board shall also enter the word "cancelled" upon the ballot stub in the ballot book, and remove such voter's name from the list provided for in KRS 126.180.

Section 16. At any time after ballots are printed and are available through the board application for an absent voter's ballot may be made in person before the board. The board shall, if the application is found to be in order and the applicant is duly qualified, permit such applicant, if he so desires, to vote by absent voter's ballot, at that time. Such ballots shall be handled in the manner of other absent voter's ballots received by the board by mail.

Section 17. Section 126.320 of the Kentucky Revised Statutes is amended to read as follows:

The cost of postage and envelopes required to be used by the board in carrying out the provisions of this Act, including the cost of printing the outer envelopes, shall be paid by the county.

Section 18. (1) The board is hereby authorized to employ a secretary who shall be compensated by the fiscal court at a rate to be decided by such board.

(2) The secretary shall be empowered with all the authority of the board with respect to receipt of voted ballots and placing of same in the ballot box, and the keeping of records.

**SB 259:** AN ACT relating to seditious literature in institutions of learning.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. No person shall circulate, distribute, or disseminate to any institution of learning or library thereof any magazine, document, circular or other printed matter advocating the overthrow of the government of the United States by force or by any illegal or unconstitutional method, or praising any form of government which advocates the overthrow of the government by such methods. Nor shall any person place any such printed matter in the library of any school, college, or other institution of learning or make such available in any manner to any student.

Section 2. Any person who violates this Act shall be fined not less than five hundred dollars nor more than one thousand dollars.

**SB 252:** AN ACT relating to boilers and pressure vessels.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. As used in this Act, unless the context requires otherwise:

(1) "Boiler" means a closed vessel intended for use in generating steam or other vapor to be used externally to itself, under pressure or vacuum by the direct application of heat from any source, or in heating water or other liquid.

(2) "Unfired pressure vessel" means a vessel in which pressure or vacuum is obtained from an external source or from an indirect application of heat.

Section 2. This Act shall not apply to the following boilers and unfired pressure vessels:

1. Boilers and pressure vessels under Federal control.
2. Unfired pressure vessels meeting the requirements of the Interstate Commerce Commission for shipment of liquids or gases under pressure.
3. Air tanks located on vehicles operating under the rules of other State authorities and used for carrying passengers or freight.
4. Air tanks installed on the right of way of railroads and used directly in the operation of trains.
5. Unfired pressure vessels having a volume of 5 cubic feet or less.
6. Unfired pressure vessels designed for a working pressure not exceeding 15 pounds per square inch gage.
7. Unfired pressure vessels conforming to regulations promulgated pursuant to KRS 234.140.

Section 3. The Commissioner of Public Safety shall promulgate reasonable rules and regulations relating to the operation of boilers and unfired pressure vessels. Such regulations shall conform as closely as possible to the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers.

Section 4. No person shall own or operate within the Commonwealth any boiler or unfired pressure vessel not conforming to rules and regulations pertaining thereto promulgated by the Commissioner of Public Safety.

Section 5. Insurance companies authorized to insure against loss from explosion of boilers and unfired pressure vessels in this State shall forward one copy of each report of its boiler or unfired pressure vessel inspection within thirty days of such inspection to the Department of Public Safety.

Section 6. Every owner, user, or operator of any boiler or unfired pressure vessel encompassed by rules and regulations promulgated by the commissioner, shall register the vessel with the Department of Public Safety before it may be installed and operated.

Section 7. Any person who violates any provision of this Act or any rule or regulation promulgated by the Commissioner with respect to boilers and unfired pressure vessels shall be fined not less than one hundred nor more than five hundred dollars or imprisoned not less than ten nor more than thirty days or both.

Section 8. This Act shall become effective on July 1, 1958.

**SB 48:** AN ACT relating to permanent standing committees in the Senate and/or the House of Representatives.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The purpose and intent of the legislation is to permit each Senator and Representative to function in his respective position constantly throughout the year, thereby being better able to familiarize himself fully with the specific phases and problems of state government and the specific departments that he may be assigned to.

Section 2. The Senate may, and the House of Representatives may, independently or jointly, appoint such standing committees as each house may from time to time deem proper and necessary. These standing committees may function the year around and with such power as will give them full authority and opportunity to study the phases and problems of state government that either the Senate or the House of Representatives may empower and direct its own committees.

Section 3. This statute gives the standing committees that may be appointed by the Senate or the House of Representatives full power and authority to obtain all the information and data that said committees deem proper and necessary. All constitutional officers and departments, all statutory agencies subject to direct control of the Governor, all statutory agencies supervised by governing boards or commissions, all other public boards and commissions not included in the foregoing, and all political subdivisions of the Commonwealth are hereby directed to furnish the standing committees so appointed by the Senate or the House whatever information said committees request.

Section 4. The life of said committees, the membership of said committees and the scope of authority of said committees will be subject to the will and discretion of the Senate or the House of Representatives whichever appoints said committees.

**SR 66:** A RESOLUTION "memorializing the Congress of the United States to extend Public Law No. 550, 82nd Congress, relating to education and training benefits, to service men and women as long as the draft continues."

WHEREAS, the Congress of the United States, expressing the will of the citizenry by the enactment of the Servicemen's Readjustment Act of 1944 (Public Law 346, 78th Congress) and the Veterans' Readjustment Act of 1952 (Public Law 550, 82nd Congress), recognized the justice, equity and general value of a sound education and training program for the veterans of our country; and,

WHEREAS, the legislation enacted to provide such education and training benefits was for the purpose of restoring lost educational opportunities to those men and women who served in the armed forces of our country and has accomplished this purpose and has been an immeasurable factor in contributing to the economic security of our veterans and their families as well as to the security of the nation as a result of the increase in our general educational level and in the professional and technical skills of the veterans; and,

WHEREAS, the increased earning power of the veterans directly attributable to the program is resulting in payment of increased income taxes which will more than repay the total cost of the program; and,

WHEREAS, notwithstanding the continuing involuntary military service program, Public Law 7, 84th Congress, denies entitlement to education and training benefits to all veterans who first entered service after January 31, 1955, which is grossly inequitable;

NOW, THEREFORE,

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Congress of the United States extend education and training benefits similar to the benefits provided by Public Law 550, 82nd Congress, as amended, to all veterans of our country who served during any period in which involuntary military service is authorized, and urges the Congress of the United States to enact legislation to accomplish this objective.

Section 2. That the clerk of the Senate send attested copies of this resolution to the President of the United States Senate, the Speaker of the House of Representatives, the Chairmen of the Education Committee of each House and to each member of the Kentucky delegation in the Congress of the United States.

### Introductions

Senator Bassett moved to suspend the Rules for the purpose of introducing a bill. Agreed.

**SB 312**, by Senator Richmond: AN ACT relating to boundaries of cities.

Senator Bassett moved adjournment until 10:00 a.m., Friday, March 7, 1958. Agreed.